

Senate Committee on Environment and Public Works
Hearing Entitled, “Hearing on the Nomination of Joseph Goffman to be Assistant Administrator for the Office of Air and Radiation, at the Environmental Protection Agency”
May 25, 2022
Questions for the Record for Joseph Goffman

Senator Kelly:

1. Most of the western United States, including Maricopa County, have background levels near the national standard for ozone. And unlike many other major urban areas, Maricopa County does not have a history of large, smokestack industries. This means that when attempting to meet ozone emission targets, the county must focus on non-industrial emission sources, like small commercial facilities or vehicles. This is what led Maricopa County to develop Rule 204, which would create “non-traditional” offsets to allow the county to meet emissions targets. This was submitted to EPA Region 9 for review two years ago. The County has also developed Rule 205, which allows emissions offsets to be created from electrifying motor vehicles in the region. These rules are a good example of what EPA should want local governments to do.: find innovative solutions to meet targets under the Clean Air Act and improve air quality. Yet, EPA has not reviewed or approved either rule – which leaves the County at risk of falling into non-compliance, despite making best efforts to comply with the Clean Air Act. Mr. Goffman, will you commit to checking on the status of Maricopa County’s Rule 204 and 205 with the Region 9 Air office?
 - a. Will you ensure the County receives regular and timely updates on the status of the review of these rules?

A: Yes. EPA is committed to completing timely review of Rule 204, which was submitted as part of proposed revisions to the Maricopa County Air Quality Department State Implementation Plan (SIP). EPA is prioritizing this review and plans to issue a Notice of Proposed Rulemaking to provide public notice on our proposed decision on this SIP revision in the fall of 2022. Regarding Rule 205, EPA is actively working with MCAQD as it prepares a draft of this rule. This summer we understand that MCAQD plans to hold a stakeholder meeting to seek comment on this draft prior to beginning a rulemaking process in late summer/early fall. We expect to receive a proposed SIP revision regarding this rule by the end of the year. We remain committed to assisting MCAQD in identifying and implementing innovative solutions to address their air quality concerns.

2. Arizona is in the midst of a historic drought – which is forcing Arizona water users to take significant water cuts. Many of these cuts are being born by our agricultural community – meaning more and more farmland is being left to fallow. As you can imagine, dry, unused farmland is more likely to be a source of particulate air pollution. As EPA is considering changes to particulate matter air quality regulations, how are you accounting for the effects of Arizona’s longstanding drought on the ability of our communities to come into compliance?

A. EPA recognizes that the long-standing drought in the southwestern United States is affecting land use practices in ways that can impact air quality. EPA's Exceptional Events Rule, updated in 2016, provides guidance for a state to request that exceedances of the ambient air quality standards that occur as a result of certain qualifying uncontrollable events, such as dust generated under high wind conditions, are excluded from certain regulatory decisions under the Clean Air Act so long as reasonable and enforceable controls are in place for other sources, such as fallow fields. The process for developing technical support and requesting data exclusion under the Exceptional Events Rule involves close coordination between EPA and the state.

Over the past several years, EPA Region 9 has worked closely with the Arizona Department of Environmental Quality to assess the impacts of high wind dust events and wildfires on ambient air quality and taken actions to ensure that qualifying uncontrollable events do not impact the State's ability to come into compliance with the national ambient air quality standards. I recognize that drought and a changing climate impact how communities in Arizona are able to continue to deliver healthy air quality and a growing economy. The Office of Air and Radiation and Region 9 are both committed to continue this important work with the State of Arizona and tribes located in Arizona.

- a. What technical assistance is EPA able to provide to Arizona communities to help them develop mitigation strategies for particulate matter which do not require significant water use?

A. EPA Region 9 has previously approved rules for Pinal County to control dust from croplands and other areawide sources, including fallow fields. These rules allow farmers to select among many best management practices, several of which do not involve significant water use (such as artificial wind barriers and mulching). Non-watering control options similarly apply for construction sites and paved roads (e.g., application of chemical stabilizers or dust suppressants, vehicle speed reduction, and sweeping) and unpaved roads (e.g., paving, graveling, and chemical stabilization). Arizona is currently working to develop similar rules to improve air quality in the Yuma area. EPA Region 9 is committed to work with the Arizona Department of Environmental Quality, tribes located in Arizona, and stakeholders to ensure that the Yuma rules meet federal requirements and achieve air quality improvement.

3. I understand that EPA is considering changes to the National Ambient Air Quality Standards for particulate matter smaller than 2.5 microns, also known as PM 2.5. Mr. Goffman, what can you share about EPA's plans to reevaluate air standards for PM 2.5? What is the timing for releasing a proposed rule?
 - a. As you evaluate the latest science for PM 2.5 emission standards, how will EPA work collaboratively to ensure cities and counties can comply with new standards?

A: EPA expects to issue a proposed rulemaking in Fall 2022 and a final rule in Spring 2023 as part of the reconsideration of the PM NAAQS. As with all reviews, the public will have opportunities to provide input during the rulemaking through the public comment process and public hearings on any proposed decision.

Setting a NAAQS requires EPA to make a health-based decision about what air quality standards are requisite to protect public health with an adequate margin of safety.

After EPA sets a new NAAQS or revises an existing NAAQS, the Clean Air Act requires EPA to determine if areas of the country meet the new standards – a process known as designation. This is the first implementation step following promulgation of a NAAQS. This process is collaborative and includes recommendations from States and Tribes. If the air quality in a geographic area meets or is cleaner than the national standard, it is designated as attainment (sometimes noted as “attainment/unclassifiable”). Areas that do not meet the national standard, or areas that contribute to areas that do not meet the national standard, are designated as nonattainment. In some cases, EPA is not able to determine an area’s status after evaluating the available information and those areas are designated unclassifiable.

Following completion of the designation process, States, Local Areas, and/or Tribes are required to prepare state implementation plan (SIP) submissions for how each area will meet the NAAQS. Different SIP requirements apply depending on the level of air pollution and the designation of the area. To help states, EPA will provide information about what states need to include in their SIP submittals. EPA intends to provide such information following any revision to the particulate matter NAAQS. Any member of the public can provide comment at various stages including during public comment on the PM NAAQS proposal, when EPA issues designations, as well as during SIP development at the state level, and during EPA action on SIPs at the federal level. Further, I am committed to bringing the same collaborative approach to meeting the requirements of the Clean Air Act that my colleagues and I have brought to other policies to any future PM attainment planning efforts.

4. Administrator Regan recently discussed EPA’s integrated strategy to reduce air emissions from the power sector, and asserted that the strategy would ensure continued provision of reliable and affordable electricity to consumers. In Arizona, our historic drought is threatening hydropower assets in Arizona – especially at Glen Canyon Dam. Given these factors, how will EPA consider energy affordability and threats to grid stability in the western United States as EPA moves forward on new and revised air quality regulations?

A: EPA is committed to carrying out its responsibility under our nation’s laws to protect people from the full array of climate, health, and environmental impacts associated with fossil fuel-fired power plants – impacts that all too often fall hardest on communities that are already overburdened by pollution. EPA will meet this challenge by working in a transparent manner with a broad range of stakeholders, engaging with other federal agencies, states, and tribal nations, and pursuing a well-coordinated approach that provides power companies, regulators, and grid operators with the information they need to make cost-effective investment and planning decisions and to continue delivering reliable and affordable electricity.

EPA has a history of delivering public health and environmental protections consistent with protecting grid reliability. Both past and present rules reflect robust resource adequacy and reliability considerations in our analysis, as well as implementation safeguards to serve as a backstop if any tensions between reliability and environmental requirements were to arise. As we move forward with actions to reduce the climate, public health, and environmental impacts of the power sector, my team and I look forward to engagement with power companies and other stakeholders in Arizona to understand and consider reliability issues facing the state and the region.

5. I understand that EPA is moving forward with new regulations to reduce greenhouse gas emissions from new and existing fossil-fuel-fired power plants. When the agency released the proposed Clean Power Plan in 2014, the rule would have mandated the retirement of all existing coal generation in the state by 2020 – a timeline which would have had disproportionate impacts on Arizona. As a result, at least in part, of extensive comments and technical data submitted by Arizona stakeholders, EPA established more workable timelines and targets for Arizona. I recognize that you led the efforts within EPA at that time to listen to the concerns raised by Arizona stakeholders. As EPA moves closer to issuing its next set of carbon rules, Arizonans would like assurance from EPA that the agency will proactively engage with the state to ensure these rules won’t cause significant disruption to utility resource plans and force adoption of dramatically more expensive and uncertain paths to decarbonization. Can you provide this assurance?

A: Yes, you have my assurance that EPA will engage early and often with Arizona and Arizonans on future rules relating to the power sector. EPA is committed to carrying out its responsibility under our nation’s laws to protect people from the full array of climate, health, and environmental impacts associated with fossil fuel-fired power plants – impacts that all too often fall hardest on communities that are already overburdened by pollution. EPA will meet this challenge by working in a transparent manner with a broad range of stakeholders, protecting public health and overburdened communities, and pursuing a well-coordinated approach that provides power companies and state regulators with the information they need to make cost-effective investment and planning decisions and to continue delivering reliable and affordable electricity.

6. I understand that EPA recently finalized a finding of non-attainment for the area around Hayden, AZ for Sulfur Dioxide and Lead air quality standards. Will you commit to

ensuring that EPA Region 9 staff engage, to the extent practicable, to ensure stakeholders in the region get the technical advice needed?

A. Yes. As a result of EPA’s recent determination that the Hayden, AZ, area failed to attain the sulfur dioxide and lead ambient air quality standards by the applicable attainment dates, the State of Arizona is required to submit revisions to the state implementation plan that provide for attainment of the standards as expeditiously as practicable. EPA Region 9 staff have been engaging and are committed to continue to engage with the Arizona Department of Environmental Quality and the Asarco facility on the development of the revised plans to help ensure that they meet federal requirements and improve air quality in the Hayden, AZ, area, and the Office of Air and Radiation stands ready to support that engagement.

7. Heading into this summer, AZ utilities expressed recent concerns regarding the reliability of power to the grid in light of recent wildfires, hotter summer temperatures, and lack of replacement power generation. What is your view of EPA’s responsibility to ensure that its regulations affecting the power sector do not put the electricity grid in jeopardy?
 - a. Can you describe EPA’s efforts in recent rulemakings to ensure that our country’s affordable, reliable power grid is preserved?

A: EPA has a responsibility to address the harmful health and environmental impacts resulting from power plant pollution. I am committed to using EPA’s authorities to address these impacts, as our nation’s environmental laws require, while also prioritizing reliability and affordability for families and the electricity sector. EPA actively engages directly with the electricity sector including system operators, state regulators, DOE, FERC, and other parties that have the know-how and responsibility for ensuring reliability and affordability. Through these engagements, EPA has established an excellent track record of delivering public health and environmental protections that save lives and improve air quality for families and communities, in ways that are consistent with protecting grid reliability and affordability.

In previous regulatory efforts in which I have been involved, including during my service during the Obama Administration, I personally have participated in numerous meetings with system operators, state regulators, FERC, and utilities where reliability and affordability were prominent topics, and you have my assurance that the Office of Air and Radiation will continue similar discussions.

8. Unlike during the Clean Power Plan rulemaking in 2014 and 2015, EPA has not appeared to be coordinating with other energy agencies during the rulemaking process for the recent Good Neighbor Federal Implementation Plan. What level of interagency coordination has occurred on this rulemaking?

A: The Good Neighbor Federal Implementation Plan proposal was submitted to OMB and underwent interagency review, which entailed review and consultation with all relevant/interested Agencies. EPA also engages, on an as-needed basis, with other federal departments and agencies that have key expertise that can help inform our rules. I would welcome any suggestions you have of people or officials you think it would be important for us to meet with.

- a. Will this trend continue with respect to other future rulemakings EPA has announced for 2023, such as a CO₂ new source performance standard to replace ACE and the CPP?

A: EPA is building on a robust foundation of public engagement to move forward on critical actions to address pollution from the power sector, including pre-proposal outreach on Section 111 greenhouse gas regulations for new and existing fossil-fuel-fired power plants. EPA has been actively seeking dialogue on our power sector rulemakings with federal partners, states, tribes, utilities, communities, nongovernmental organizations, and other key stakeholders. With regard to other energy agencies, EPA has met, for example, with representatives from federal partners such as FERC) and DOE as well as regional transmission organizations governing the power sector, such as the Midcontinent Independent System Operator (MISO) and PJM Interconnection. As we move forward, I would welcome any suggestions you have for people or officials with whom you think it would be important for us to meet.

9. EPA recently released another batch of Good Neighbor State Implementation Plan denials under the section of the CAA (Section 110) that allows states to create a plan to address their ozone obligations to other states (CA, MN, NV, UT, WY), which follows other state denials from February. Section 110 allows states to have the first cut at addressing its responsibility to protect visibility. Regional Haze is an important issue to Arizona due to the wealth of Class I areas in the state. What is your view of the interaction between states and EPA with respect to the cooperative statutory framework that Section 110 of the CAA requires?

A: The cooperative framework of CAA Section 110 provides states with the primary responsibility to implement air quality planning requirements under CAA Section 110 for both interstate transport and regional haze obligations. Once state implementation plans are submitted, EPA must evaluate whether those plans meet applicable requirements of the Act. Where EPA does not approve the state's plan, EPA has an obligation to implement federal plans within timeframes specified by the statute.

For the last three years, EPA Region 9 has worked closely with the Arizona Department of Environmental Quality on the development of the Arizona Regional Haze SIP, which the State plans to submit later this year. Following this submittal,

EPA will evaluate whether the submittal meets the requirements of the Clean Air Act and the Regional Haze Rule.

a. What do you see as the limits to EPA's power under Section 110?

A. CAA section 110 delineates the general processes for States' development of SIPs and EPA action on such SIPs. Under the CAA, EPA is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. CAA section 110(k); 40 CFR 52.02(a).

In some cases, other provisions of the CAA, as well as implementing regulations and/or guidance provide additional information to support state actions. For example, States' obligations under the regional haze program specifically are set forth in CAA sections 169A and 169B and 40 CFR 51.300-09.

b. In what circumstances should EPA consider factors and preferences unique to a state in crafting solutions?

A. The Clean Air Act is structured to recognize that states are usually best situated to develop their own plans, and, if confirmed, I will always defer to a state co-regulator where it is willing and able to meet the requirements of the Clean Air Act.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the requirements of the CAA (including any implementing regulations). Generally, the CAA, implementing regulations, and guidance provide program-specific information explaining, among other issues, how state-specific circumstances may be considered as part of program implementation. Under the Regional Haze Rule, for example, States and EPA are required to consider factors unique to the State, including for instance the particular State's contribution to visibility impairment in Class I areas. In addition, the Regional Haze Rule and implementing guidance identify additional areas where states may exercise reasonable discretion in considering state-specific circumstances or preferences, in a manner consistent with the applicable requirements of the program.

10. Environmental justice is an important consideration that EPA has highlighted during this Administration. Arizonans want pristine air quality but also affordable and reliable power. How does EPA weigh the air quality benefits to disadvantaged communities against the compliance costs?

A. EPA's public health mission is critical to the economy, because reducing air pollution protects workers and families - not only sparing them from getting sick and from the burden of health care costs, but also allowing them to be productive in pursuing their livelihoods.

For too long, too many of our fellow Americans – especially people of color, poorer people, rural citizens – have lived in communities dealing with a higher burden of pollution than the rest of us and have had no chance to have their voices heard. Under Administrator Regan’s leadership we have remained committed to integrating environmental and economic priorities. One way we do that is by engaging with all stakeholders, going to communities where they work and live, and hearing first-hand how our work is affecting them.

Where called upon and authorized by statute, regulation, or executive order or guidance to do so, EPA seeks to quantify the likely benefits and costs of certain regulatory options, including identifying who will bear those costs and reap those benefits. Describing the effects of EPA rules is an important part of our obligation to be transparent in how we conduct our analyses.

11. As the agency that implements the Renewable Fuel Standard, EPA has, since 2010, adopted various rules that allow for the creation of a RIN from electricity (so-called “eRINs”) but has not processed any eRINs to date, creating a back log of facility registrations and requests for additional “pathways.” Currently, there is only a pathway for biogas as an electricity generation feedstock under the RFS. However, there are many other electricity generators using RFS-qualifying feedstocks as fuel. How long will it take to create additional pathways for participation in the electricity program?

A: As you noted, stakeholders have shown continued interest in EPA taking action to allow for the generation under the RFS program of RINs derived from renewable electricity and used in transportation fuel (eRINs), using an already-approved pathway. EPA is committed to moving forward on this matter. After reviewing input and eRIN registration applications from stakeholders, as well as information gained from previous requests for public input on eRIN program design, we determined that proposing new regulations to clarify how the program would be operated was necessary and would provide an opportunity for the public to review our proposed approach. EPA is still developing these new regulations and will address questions regarding which pathways will be eligible as part of that proposed regulation.

Ranking Member Capito:

1. As EPA evaluates regulations on the oil and gas sectors, it is important that rules are neither too prescriptive nor overly burdensome in a way that discourages new, efficient technology investments. Do you commit that EPA regulations will not impose barriers to the use of new, efficient technologies for natural gas production, including technologies such as electric well stimulation?

A: EPA has proposed to update and strengthen standards for methane and volatile organic compounds from new, modified, and reconstructed oil and natural gas facilities, as well as to issue the first nationwide emission guidelines for states to

follow in limiting methane from existing sources. The proposal reflects proven, cost-effective measures that several states and leading companies are already using to minimize oil and natural gas pollution, as well as innovative technologies that allow methane emissions to be detected more quickly and cost-effectively than ever before. EPA received over 470,000 comments on the November 2021 proposal. I do not want to prejudge the outcome of this regulatory process; EPA looks forward to ongoing and robust stakeholder engagement as the Agency continues to review comments on the proposed rule and proposes a supplemental rulemaking later this year.

2. In its regulatory proposal for methane emissions from the oil and gas sectors, EPA failed to include any regulatory text with the proposal when it was published in the Federal Register. Will you commit that EPA will align the applicability date of regulations with the date EPA publishes actual regulatory text?

A: The November 2021 proposal addressed a total of four regulatory subparts and one appendix under 40 CFR part 60. EPA did include amendatory regulatory text in the public docket for two of the four subparts in addition to the appendix. The EPA provided detailed descriptions of its proposal for the other two subparts for notice and comment in the November 2021 proposal.

3. Why did EPA rush a proposal without providing regulatory text contemporaneously rather than wait or issue an advanced notice of proposed rulemaking?

A: Regulatory text is not required in a proposed rule. The November 2021 proposal addressed a total of four regulatory subparts and one appendix under 40 CFR part 60. EPA did include amendatory regulatory text in the public docket for two of the four subparts in addition to the appendix. The EPA provided detailed descriptions of its proposal for the other two subparts for notice and comment in the November 2021 proposal.

4. Please provide any past example(s) where the EPA Office of Air and Radiation has issued a regulatory proposal that did not include actual proposed Code of Federal Regulations text.

A: Neither the Clean Air Act nor the Administrative Procedure Act requires that a proposed rule include regulatory text. Courts have upheld proposed rules, including EPA's, where the notice of proposed rulemaking did not include proposed regulatory text but described and discussed the subjects and issues involved. *See, e.g., Rybachek v. EPA*, 904 F.2d 1276, 1287 (9th Cir. 1990).

5. If EPA decides to move forward with the rulemaking, will you commit to solicit public comment for at least 90 days on the entire proposed action when the supplemental proposal for the methane rule is released?

A: The Agency is now developing a supplemental proposal, which we intend to release later this year. The supplemental proposal is an important step in developing

a final rule. It will include additional proposed regulatory text for public comment, address implementation details that were not part of the November proposal, and may revisit, refine, or expand on elements of the November proposal in response to public input. This supplemental proposal will be subject to its own public comment period, and EPA will consider comments received on both the November 2021 proposal and the supplemental proposal when developing a final rule.

6. How is EPA accounting for global supply shortages that are affecting the availability of components needed for retrofits of wells and downstream equipment in its development of proposed implementation and compliance timelines?

A: The EPA is looking at a number of considerations as we develop the supplemental proposal which will address implementation details that were not part of the November proposal.

7. In the recently announced proposal to revise the Greenhouse Gas Reporting Program (GHGRP), EPA is proposing changes to Subpart W that will also impact EPA's methane proposal. Specifically, how do the proposed changes to Subpart W affect the justifications for the methane rule?

A: The proposed revisions to the GHGRP do not change the justification for EPA's oil and gas rule. The proposed GHGRP revisions would streamline GHGRP reporting by aligning certain requirements in the GHGRP Petroleum and Natural Gas Systems source category (40 CFR Part 98, subpart W) with EPA's oil and gas rule. In addition, the GHGRP proposed revisions would further enhance the quality of GHGRP reported data so that the GHGRP continues to serve as an important tool for the Agency and the public to understand emissions from this sector.

8. You provided responses to my three letters – from March, August, and October 2021 – relating to the Renewable Fuel Standard (RFS) program with virtually identical text on the same day, December 14, 2021. Now that you have had a chance to review your responses, do you believe the form letter responses you provided to these letters were timely and transparent replies providing adequate information to this Committee to conduct oversight of the program?

A: I was disappointed to learn at the Committee's hearing that you found these responses to be unsatisfactory. I take seriously the Agency's obligations to provide thorough responses to inquiries from Congress while protecting the Agency's ability to complete reasoned and deliberative rulemaking on the actions that are under development in our administrative process.

As you know, the Agency recognizes that the RFS is a critical tool for incentivizing the greater deployment of low-carbon renewable fuels, and we have greatly appreciated the engagement with you and your staff. During the timeframe in which the Agency received your letters, the Agency was developing the proposed revised Renewable Volume Obligations for 2020 and obligations for 2021 and 2022. The proposed rule was released on December 7, 2021. We held a briefing for all

interested Congressional staff on that same day, and we held a second briefing specifically for your staff to ask additional questions the following week, on December 14, 2021.

As you know, we announced final obligations on June 3, 2022, and held a briefing that same day for interested Congressional staff.

9. Do you think late form letters are an appropriate way to respond to legitimate congressional oversight inquiries?

A. If confirmed, I look forward to continuing to work with you and your staff to provide the oversight information that Congress needs to perform its legislative duties.

10. The Clean Air Act requires EPA to examine each small refinery's individual petition, considering its unique circumstances and local conditions. Yet, in April 2022, your office denied 36 small refinery exemption (SRE) petitions from 2018, and on June 3, 2022, your office proposed a blanket denial of 69 pending SRE petitions. Can you elaborate on how – and if – EPA could consider each small refinery's individual petitions and the unique circumstances and local conditions when the EPA chose to issue blanket denials?

A: EPA's action consists of individual adjudications and is consistent with EPA's prior findings relating to the RIN market, including EPA's findings in prior annual rulemakings and the decision denying petitions to change the point of obligation. Many of these findings are based on publicly available data.

While maintaining the confidentiality of certain data is necessary for EPA to receive refinery specific data, EPA's analysis in the document should provide parties with enough data and information to verify EPA's conclusions. In addition, many parties, including small refineries, submitted public comments in response to EPA's December 2021 proposal, including economic studies that are included in the docket. EPA's evaluation and response to these studies is presented in the decision.

11. Are either the April or June blanket denials a rulemaking?

A: No. They are individual adjudications.

12. Do you acknowledge that the justification for your proposed blanket denial of SREs released in December included an EPA finding that refiners can always pass along the cost of compliance down the supply chain, ultimately onto motorists and American families?

A: All of the data reviewed by EPA in preparing the December 2021 proposed denial, including fuels market data and refinery specific data submitted by small refineries, indicated that small refineries were able to pass along the cost of compliance during the time period covered by the petitions.

13. Do you still feel comfortable with that assessment now that gasoline prices and inflation are at all-time highs?

A: Yes, and it is important to note that we do not expect that the recently finalized RFS standards themselves to have any significant impact on gasoline prices. Granting or denying SREs doesn't change the required renewable fuel volume because under EPA regulations any exempted volumes from small refineries are reallocated to the rest of the industry. With no change in overall volumes, small refinery exemptions, whether granted or denied, are essentially immaterial to any impact of the RFS program on fuels markets.

14. In prior years, has granting small refinery exemptions (SREs) reduced total ethanol blending in the fuel supply?

A: Beginning with the regulatory changes made for 2020, granting or denying SREs has no effect on the total volumes of renewable fuel required because any exempted volumes from small refineries will be reallocated to the rest of the industry.

In years prior to that regulatory modification, SREs reduced the RFS volume mandates, but still had little impact on *ethanol* blending into the fuel supply since blending ethanol at 10% has been consistently economical for refiners for many years. Whether or not refineries were granted an SRE, 10% ethanol was still blended into the gasoline they produced by themselves or someone else.

15. If the answer to the preceding question is yes, please provide specific data on the exact amount of ethanol blending that was reduced as a direct result of granting SREs.

A: See response to Question 14.

16. EPA recently issued an "emergency" fuel waiver that reinstates gasoline retailers' ability to sell gasoline with 15 percent ethanol, or E15, in the summer. This authority has been used when hurricanes or pipeline shutdowns occur and fuel *supplies* are disrupted, but now the Administration is using this waiver in an attempt to lower fuel *costs*. Where specifically does the Clean Air Act allow for these waivers to be used to address fuel prices?

A: Clean Air Act (CAA) Section 211(c)(4)(C)(ii) and (iii), 42 U.S.C. § 7454(c)(4)(C)(ii) and (iii), gives the EPA Administrator the authority, after consultation with the Secretary of Energy, to temporarily waive a fuel control in "extreme and unusual fuel [] supply circumstances."

The authority extends only to extreme and unusual fuel supply circumstances such as those caused by the war in Ukraine that are affecting all regions of the Nation.

17. On April 28, 2022, eight Midwestern governors petitioned EPA to opt out of a vapor pressure waiver for 10 percent ethanol blends.¹ What analysis will EPA perform to evaluate this request?

A: EPA is in the process of evaluating the petition from the Governors. Assuming that it meets the requirements of Section 211(h)(5) of the Clean Air Act, the next step would be for EPA to develop a proposal for public comment.

18. Did EPA consult with the Department of Energy on the decision to deny 69 SRE petitions on June 3, 2022? If so, how?

A: As required by the CAA, EPA consulted with DOE and considered the DOE study and other economic factors in conducting the evaluation that resulted in the December 2021 Proposal and the April and June 2022 Denials. That process is described in the decision, and documentation of the consultation process is available in the docket.

19. The Director of the Office of Transportation and Air Quality said EPA aims to propose the “Set” rule this year for RFS volumes for 2023 and beyond, and confirmed the inclusion of a provision for electric renewable identification numbers.² Which entities will be eligible to generate RIN credits from electricity? Will it be fuel producers, electric car manufacturers, electric vehicle owners, charging stations, or other organizations or individuals?

A: Stakeholders have shown continued interest in EPA taking action to allow for the generation under the RFS program of RINs derived from renewable electricity and used in transportation fuel (eRINs), using an already-approved pathway. EPA is committed to moving forward on this matter. After reviewing input and eRIN registration applications from stakeholders, as well as information gained from previous requests for public input on eRIN program design, we determined that proposing new regulations to clarify how the program would be operated was necessary and would provide an opportunity for the public to review our proposed approach. EPA is still developing these new regulations and we anticipate providing more detail on key design elements, including who might be eligible to generate eRINs, in the upcoming proposed rulemaking.

20. What is your definition of “slash” biomass residuals for purposes of the RFS program?

A: “Slash” is defined in EPA regulations at 40 CFR 80.1401 as “the residue, including treetops, branches, and bark, left on the ground after logging or accumulating as a result of a storm, fire, delimiting, or other similar disturbance.”

¹<https://ethanolrfa.org/file/2224/FINAL%20Governors%20Letter%20to%20EPA%20on%20RVP%20Waiver%204.28.22.pdf>

²<https://insideepa.com/daily-news/rfs-set-rule-will-create-method-allocate-electric-compliance-credits>

21. Do you believe EPA has the authority under Section 211 to transform the RFS program into a low carbon fuel standard?

A: CAA section 211 requires EPA to implement the RFS program, but it does not explicitly require or otherwise address a low carbon fuel standard.

22. Do you agree with the following statement made by 11 groups in a May 23 letter to EPA, including Center for Biological Diversity, Earthjustice, Friends of the Earth, National Wildlife Federation, and Sierra Club: “While the RFS may have been well intentioned, it has consistently failed to deliver climate benefits and has, in fact, become a driver of climate and other environmental harms”?³

A: If confirmed as Assistant Administrator to lead the Office of Air and Radiation, I will continue to implement the RFS in accordance with all applicable laws and regulations. The RFS program can deliver not just environmental benefits, but economic and energy security benefits, especially now when the war in Ukraine is impacting global fuels markets.

23. Do you support the methane fee text in Section 30114 released in December 2021 by Chairman Carper?⁴

A: The Administration has not taken a position on the December 2021 draft legislation. EPA has provided technical assistance to the EPW committee on request. The Administration has supported H.R. 5376, which included related provisions.

24. Would imposition of that methane fee be redundant or duplicative with the EPA’s proposed regulation of methane emissions from oil and gas sources under Section 111 of the Clean Air Act?

A: If EPA were tasked by Congress with developing a methane emissions reduction program, one focus of ours would be to ensure that, consistent with Congress’s remit, any ensuing program would be complementary to the proposed oil & gas rule under section 111. The technical assistance provided to Senator Carper included a focus on ensuring that any program established under the legislation would be complementary to EPA regulations.

25. Do you agree with the statement made by Gina McCarthy on the Supreme Court litigation over the Mercury and Air Toxics Standards rule in 2015 when she said that it did not matter whether EPA actually prevailed in the Supreme Court (i.e., whether the rule regulating power plants was lawful) because “Most of them are already in compliance, investments have been made....”?⁵

³ https://insideepa.com/sites/insideepa.com/files/documents/2022/may/epa2022_0874.pdf

⁴ The text is available at: https://www.epw.senate.gov/public/_cache/files/b/a/ba6d1bb0-e951-4f4b-aa6c-247c302bb736/175CD093B7D56B22095669BB9A1BD22F.maz21c30.pdf

⁵ <https://thehill.com/policy/energy-environment/246423-supreme-court-overturms-epa-air-pollution-rule/>

29. Do you believe coal will be necessary to ensure reliable electricity and affordable energy prices at home and abroad in 2030?

A: Coal plays an important role in our electricity sector; its production and use also cause pollution and contribute to climate change. I believe the President has made it clear that we need a wide variety of fuel sources to move us forward toward a cleaner and reliable energy future.

30. Given EPA's clear intent to use a broad EGU regulatory strategy to transform the power sector, have you completed an economy-wide assessment of the strategy's impacts on the domestic marketplace and costs to consumers and families?

A: EPA has a responsibility to advance policies to ensure that all Americans are protected from the power plant pollution that harms public health and our economy. These harms all too often fall most heavily on overburdened and vulnerable communities. I am committed to using EPA's authorities to address these impacts, as our nation's environmental laws require. I am also equally committed to doing that in a transparent and well-coordinated way that is consistent with delivering affordable and reliable electricity for families and businesses. As a matter of course in Agency rulemakings and per relevant federal executive orders and guidance, EPA performs regulatory impact analyses (RIA) to quantify the likely benefits and costs of certain regulatory options. Describing the effects of EPA rules is an important part of our obligation to be transparent in how we conduct our analyses. Each RIA is prepared in accordance with Executive Orders and OMB guidelines for economic analyses.

31. If not, please explain why EPA would move forward without fully understanding the EGU strategy's impacts a domestic energy market that is facing severe reliability constraints.

A: EPA has a responsibility to advance policies to ensure that all Americans are protected from the power plant pollution that harms public health and our economy. These harms all too often fall most heavily on overburdened and vulnerable communities. I am committed to using EPA's authorities to address these impacts, as our nation's environmental laws require. I am also equally committed to doing that in a transparent and well-coordinated way that is consistent with delivering affordable and reliable electricity for families and businesses. As a matter of course in Agency rulemakings and per relevant federal executive orders and guidance, EPA performs regulatory impact analyses (RIA) to quantify the likely benefits and costs of certain regulatory options. Describing the effects of EPA rules is an important part of our obligation to be transparent in how we conduct our analyses. Each RIA is prepared in accordance with Executive Orders and OMB guidelines for economic analyses.

In addition, EPA will continue to actively engage directly with the electricity sector including system operators, state regulators, DOE, FERC, and other parties that have the know-how and responsibility for ensuring reliability and affordability.

EPA is committed to facilitate compliance with electric reliability standards by providing state and federal energy regulators, power companies, and grid operators with well-timed information about EPA actions, and by establishing clear and achievable compliance deadlines. The electric power industry has repeatedly demonstrated its capability to comply with EPA rules while fulfilling critical electric reliability responsibilities.

32. Will you pledge to meet with all entities potentially subject to regulations, including national trade associations and their members, as you craft regulations impacting their sectors moving forward?

A. Under Administrator Regan’s leadership, the Office of Air and Radiation remains committed to integrating environmental and economic priorities. One way we do that is by engaging with all stakeholders and hearing first-hand how our work is affecting them. I welcome these conversations and will continue to engage in them regularly if I am confirmed.

33. How is the EPA Office of Air and Radiation considering supply chain constraints in its development of proposed and final regulations to ensure any technology or emissions reduction requirements are feasible and cost effective?

A: As a matter of course in Agency rulemakings, OAR takes into consideration factors that are critical to ensuring that emissions standards and requirements are feasible, achievable, and effective. In addition, following relevant federal executive orders and guidance, EPA prepares a regulatory impact analysis (RIA) to quantify the likely benefits and costs of certain regulatory options. Describing the effects of EPA rules is an important part of our obligation to be transparent in how we conduct our analyses. Each RIA is prepared in accordance with Executive Orders and OMB guidance, and the Agency’s guidelines for economic analyses.

34. How does the EPA Office of Air and Radiation consider and quantify how its regulations can result in an increase in emissions internationally through emissions leakage or lead to offshoring of industries?

A: EPA’s Guidelines for Preparing Economic Analysis state that a regulatory impact analysis should be comprehensive in scope, including emissions leakage where a rule might be expected to result in changes to international market prices and foreign producer behavior. For example, EPA’s Renewable Fuels Standard (RFS) uses lifecycle greenhouse gas intensities including indirect emissions caused by international land use change. In 2017 EPA received further recommendations on the use of economy-wide models for assessing the benefits, social costs, and economic impact of air regulations from the Science Advisory Board (SAB). The SAB’s recommendations included estimating competitiveness impacts and emissions leakage through detailed global analytical models. However, the SAB also noted key challenges to incorporating economy-wide modeling into regulatory analysis including cost, availability of appropriate models and transparency. EPA is working to implement the SAB’s recommendations by supporting the development

of third-party open-source datasets and modeling platforms and incorporate leakage concerns where reasonable and appropriate.

35. Has EPA considered how regulations are increasing cost of production of goods and services in the US and how that translates to increased energy costs for consumers?

A: As a matter of course in Agency rulemakings and per relevant federal executive orders and guidance, EPA prepares a regulatory impact analysis (RIA) to quantify the likely benefits and costs of certain regulatory options. Describing the effects of EPA rules is an important part of our obligation to be transparent in how we conduct our analyses. Each RIA is prepared in accordance with Executive Orders and OMB guidance, and the Agency's guidelines for economic analyses. When relevant to the rulemaking, EPA examines industry compliance costs, impacts on fuel and electricity prices, and impacts on electricity bills.

36. If confirmed, can you commit to ensure EPA's regulations facilitate the increased export of US liquefied natural gas (LNG), in support of President Biden's pledge to provide more LNG to our European allies during their standoff with Russia over the war in Ukraine?

A: Russia's unjustified, unprovoked, and unconscionable war against Ukraine, and its ongoing destructive military campaign, have had a profound impact on global and domestic energy markets. EPA is committed to following the President's leadership and acting according to our authorities by following the science and the law in a transparent manner.

37. Will EPA suspend its past practice of submitting negative comments in FERC proceedings that criticize the Commission moving forward with necessary approvals to build natural gas infrastructure?⁶

A: EPA, under its CAA section 309 responsibility, provides comments and recommendations that improve technical sufficiency and ensure adequate and accurate disclosure of impacts to the public as required of all Federal agencies by the National Environmental Policy Act (NEPA). EPA's Office of Policy oversees implementation of CAA Section 309.

38. Are you concerned that any of EPA's new proposals or implementation of rules will threaten the reliability of the electric grid?

A: No. Ensuring that power producers can continue to provide reliable and affordable electricity is paramount, and the electric power industry has repeatedly demonstrated its capability to comply with EPA rules while fulfilling critical electric reliability responsibilities. As OAR moves forward, I anticipate constructive engagement and dialogue to identify any specific reliability concerns raised by

⁶ <https://insideepa.com/climate-news/ferc-back-gas-projects-despite-epa-call-tougher-climate-study>

compliance with EPA rulemaking. Providing state and federal energy regulators, power companies, and grid operators with well-timed information about power plants' environmental obligations can support the kind of planning and investment needed to ensure reliability going forward.

39. How is EPA coordinating with regional transmission operators, such as MISO and PJM, or the North American Electric Reliability Corporation, as it promulgates regulations impacting the power sector?

A: EPA has been, and continues to be, open to engagement with all stakeholders, including reliability organizations. Ensuring that power producers can continue to provide reliable and affordable electricity is paramount, and the electric power industry has repeatedly demonstrated its capability to comply with EPA rules while fulfilling critical electric reliability responsibilities. As OAR moves forward, I anticipate constructive engagement and dialogue to identify any specific reliability concerns raised by compliance with EPA rulemaking. Providing state and federal energy regulators, power companies, and grid operators with well-timed information about power plants' environmental obligations can support the kind of planning and investment needed to ensure reliability going forward.

40. As we discussed during your hearing, the EPA recently proposed the “Federal Implementation Plan Addressing Regional Ozone Transport for the 2015 Ozone National Ambient Air Quality Standard,” also called the “Good Neighbor Plan.”⁷ Did you evaluate how this proposal will impact domestic production of materials – such as steel and cement – prior to proposing it?

A: EPA issued the proposed Good Neighbor rule in order to carry out the Agency's obligation under the Clean Air Act to ensure that states avoid pollution that contributes to unhealthy air quality in downwind communities. EPA prepared a regulatory impact analysis (RIA) to quantify the likely benefits and costs of certain regulatory options when the agency proposed the Good Neighbor Plan. Describing the effects of EPA rules is an important part of our obligation to be transparent in how we conduct our analyses. Each RIA is prepared in accordance with Executive Orders and OMB guidance, and the Agency's guidelines for economic analyses. Before issuing a final rule next year, EPA will carefully consider all comments and information submitted on the proposal.

41. Have you considered how the “Good Neighbor Plan” interplays with Build America, Buy America requirements for federally-funded infrastructure investments – including those supported by the bipartisan Infrastructure Investment and Jobs Act (IIJA)?

⁷ <https://www.govinfo.gov/content/pkg/FR-2022-04-06/pdf/2022-04551.pdf>

A: EPA issued the proposed Good Neighbor rule in order to carry out the Agency’s obligation under the Clean Air Act to ensure that states avoid pollution that contributes to unhealthy air quality in downwind communities. As a matter of course in Agency rulemakings and per relevant federal executive orders and guidance, EPA prepared a regulatory impact analysis (RIA) to quantify the likely benefits and costs of certain regulatory options. Describing the effects of EPA rules is an important part of our obligation to be transparent in how we conduct our analyses. Each RIA is prepared in accordance with Executive Orders and OMB guidance, and the Agency’s guidelines for economic analyses. Before issuing a final rule next year, EPA will carefully consider all comments and information submitted on the proposal.

42. Has EPA evaluated how the proposed “Good Neighbor Plan” may increase the costs of required materials and therefore the “bang for the buck” of these historic federal infrastructure investments in IJA?

A: EPA issued the proposed Good Neighbor rule in order to carry out the Agency’s obligation under the Clean Air Act to ensure that states avoid pollution that contributes to unhealthy air quality in downwind communities. As a matter of course in Agency rulemakings and per relevant federal executive orders and guidance, EPA prepared a regulatory impact analysis (RIA) to quantify the likely benefits and costs of certain regulatory options. Describing the effects of EPA rules is an important part of our obligation to be transparent in how we conduct our analyses. Each RIA is prepared in accordance with Executive Orders and OMB guidance, and the Agency’s guidelines for economic analyses. Before issuing a final rule next year, EPA will carefully consider all comments and information submitted on the proposal.

43. Your proposal made assumptions about how NO_x could be reduced at these facilities, including by installing a type of emission reduction technology called selective catalytic reduction (SCR) for electric arc furnace steel plants.⁸ Yet, this type of technology “has never been shown to be workable” at these type of steel plants.⁹ During our conversation prior to your hearing, you stated this part of the Clean Air Act is not “technology forcing.” If this technology has never been shown to be workable on these furnaces, would that not be “technology forcing” to require its use?

A: EPA issued the proposed Good Neighbor rule in order to carry out the Agency’s obligation under the Clean Air Act to ensure that states avoid pollution that

⁸ Federal Implementation Plan Addressing Regional Ozone Transport for the 2015 Ozone National Ambient Air Quality Standard, 87 Fed. Reg. 20036, 20145, located at <https://www.govinfo.gov/content/pkg/FR-2022-04-06/pdf/2022-04551.pdf>

⁹ InsideEPA, *EPA Floats Plan To Boost Compliance With Steel Furnace Air Standards* (May 16, 2022), available at <https://insideepa.com/daily-news/epa-floats-plan-boost-compliance-steel-furnace-air-standards> (“At an April 21 virtual hearing on the CSAPR proposal, Joseph Green, counsel for the Specialty Steel Industry of North America, said SCR “has never been shown to be workable” at electric arc furnace steel plants.”).

contributes to unhealthy air quality in downwind communities. This proposed rule follows the long-established Cross-State Air Pollution Rule (CSAPR) framework, using highly cost-effective pollution control approaches that states, the power sector, and other industries have traditionally relied on to address nitrogen oxide (NOx) emissions. The proposed standards for non-EGU sources are based on cost-effective, proven technologies that many similar facilities have been using for years and provide substantial lead time for compliance. EPA is working with industry stakeholders to better understand whether there are any control-technology limitations at specific non-EGU facilities covered by the proposed rule. EPA appreciates stakeholder engagement on this topic to inform a final rule that reduces NOx emissions from non-EGU sources in a cost-effective and workable manner. Before issuing a final rule next year, EPA will carefully consider all comments and information submitted on the proposal.

44. For some types of sources you call for reductions up to 40 percent below “Best Achievable Control Technologies” EPA certified just last year. What does “Best Achievable Control Technology” (BACT) mean to you as a legal and practical matter?

A: Under the New Source Review Program, sources that meet certain applicability criteria for a new major source or major modification at an existing source in an area that is located in an attainment or unclassifiable area for the National Ambient Air Quality Standards (NAAQS) are subject to the prevention of significant deterioration (PSD) program. As part of the PSD permitting process, these sources must apply Best Available Control Technology (BACT) to their emission units. BACT is a case-by-case decision that takes into account energy, environmental, and economic impacts and other costs associated with the application of alternative control systems. With respect to the proposed Good Neighbor Plan, EPA is working with industry stakeholders to better understand whether there are any control-technology limitations at specific non-EGU facilities covered by the proposed rule. EPA appreciates stakeholder engagement on this topic to inform a final rule that reduces NOx emissions from non-EGU sources in a cost-effective and workable manner. Before issuing a final rule next year, EPA will carefully consider all comments and information submitted on the proposal.

45. How is such a significant and seemingly arbitrary emissions reduction standard below a year-old BACT even feasible, never mind “technology forcing”?

A: EPA issued the proposed Good Neighbor rule in order to carry out the Agency’s obligation under the Clean Air Act to ensure that states avoid pollution that contributes to unhealthy air quality in downwind communities. This proposed plan follows the long-established Cross-State Air Pollution Rule (CSAPR) framework, using highly cost-effective pollution control approaches that states, the power sector, and industry have traditionally relied on to address nitrogen oxide (NOx) emissions. The proposed standards for non-EGU sources are based on cost-effective, proven technologies that many similar facilities have been using for years and provide

substantial lead time for compliance. EPA is working with industry stakeholders to better understand whether there are any control technology limitations at specific non-EGU facilities covered by the proposed rule. EPA appreciates stakeholder engagement on this topic to inform a final rule that reduces NOx emissions from non-EGU sources in a cost-effective and workable manner. Before issuing a final rule next year, EPA will carefully consider all comments and information submitted on the proposal.

46. Have you evaluated how this proposal will increase imports of foreign-made steel and aluminum from countries like China with lower environmental standards?

A: As a matter of course in Agency rulemakings and per relevant federal executive orders and guidance, EPA prepared a regulatory impact analysis (RIA) to quantify the likely benefits and costs of certain regulatory options. Describing the effects of EPA rules is an important part of our obligation to be transparent in how we conduct our analyses. Each RIA is prepared in accordance with Executive Orders and OMB guidance, and the Agency’s guidelines for economic analyses. The RIA for this proposal can be found here:

https://www.epa.gov/system/files/documents/2022-03/transport_ria_proposal_fip_2015_ozone_naaqs_2022-02.pdf

47. The proposed “Good Neighbor Plan” would significantly impact smaller utilities, municipal utilities, and electric cooperatives – threatening energy generation and grid reliability. Has EPA considered the proposal’s impact on electricity prices and reliability?

A: EPA issued the proposed Good Neighbor rule in order to carry out the Agency’s obligation under the Clean Air Act to ensure that states avoid pollution that contributes to unhealthy air quality in downwind communities. As a matter of course in Agency rulemakings and per relevant federal executive orders and guidance, EPA prepares a regulatory impact analysis (RIA) to quantify the likely benefits and costs of certain regulatory options. Describing the effects of EPA rules is an important part of our obligation to be transparent in how we conduct our analyses. Each RIA is prepared in accordance with Executive Orders and OMB guidance, as well as the Agency’s guidelines for economic analyses. When relevant to the rulemaking, EPA examines industry compliance costs, impacts on fuel and electricity prices, and impacts on electricity bills. The electric power industry has repeatedly demonstrated its capability to comply with EPA rules while fulfilling its critical electric reliability responsibilities. Before issuing a final rule next year, EPA will carefully consider all comments and information submitted on the proposal.

48. What is the projected total compliance cost of the on electric generators if the “Good Neighbor Plan” proposal were finalized as proposed?

A: EPA issued the proposed Good Neighbor rule in order to carry out the Agency’s obligation under the Clean Air Act to ensure that states avoid pollution that

contributes to unhealthy air quality in downwind communities. This proposed rule follows the long-established Cross-State Air Pollution Rule (CSAPR) framework, using highly cost-effective pollution control approaches that states, the power sector, and industry have traditionally relied on to address nitrogen oxide (NO_x) emissions. As presented in the *Regulatory Impact Analysis for Proposed Federal Implementation Plan Addressing Regional Ozone Transport for the 2015 Ozone National Ambient Air Quality Standard*, the present value of costs on electric generators over 2023-2042 from the proposed rule is \$17 billion (in 2016\$). The annualized value on electric generators over 2023-2042 is \$1.1 billion annually (in 2016\$). For comparison, the present value of total monetized benefits for EGUs and non-EGUs combined over the 2023-42 period is \$250 billion (in 2016\$). The annualized value of the total monetized benefits is \$17 billion annually (2016\$).

49. What is the projected total compliance cost of implementation on industrial sources if the “Good Neighbor Plan” were finalized as proposed?

A: EPA issued the proposed Good Neighbor rule in order to carry out the Agency’s obligation under the Clean Air Act to ensure that states avoid pollution that contributes to unhealthy air quality in downwind communities. This proposed rule follows the long-established Cross-State Air Pollution Rule (CSAPR) framework, using highly cost-effective pollution control approaches that states, the power sector, and industry have traditionally relied on to address nitrogen oxide (NO_x) emissions. As presented in the *Regulatory Impact Analysis for Proposed Federal Implementation Plan Addressing Regional Ozone Transport for the 2015 Ozone National Ambient Air Quality Standard*, the present value of the compliance costs for the industries and emissions sources included in the proposal over the period 2023 to 2042 is \$4.8 billion (in 2016\$). The annualized compliance cost for the industries and emissions sources included in the proposal over the period 2023 to 2042 is \$320 million annually (2016\$). EPA will continue to improve its assessment of industries and may incorporate new findings into analysis for a final action. For comparison, as reported in the proposal RIA, the present value of monetized benefits for EGUs and non-EGUs combined over the 2023-42 period is \$250 billion (in 2016\$). The annualized value of the total monetized benefits is \$17 billion annually (2016\$). (This does not include the monetized climate benefits of the proposal, which EPA published in an addendum to the RIA.¹⁰)

50. Did you evaluate whether the “Good Neighbor Plan” proposal will force impacted electric generating units or industrial sources to shut down?

A. The proposed rule does not require any sources to shut down. EPA’s power sector modeling of the proposed rule estimates how much capacity operators may

¹⁰ See https://www.epa.gov/system/files/documents/2022-04/2015-fip-climate-benefits-technical-memo_04052022.pdf.

choose to retire and replace with lower emitting electricity-generation resources as the most economically efficient strategy after taking account of additional requirements. However, those decisions will be made by operators of the covered sources themselves. This proposed rule is based on proven, cost-effective emissions control technologies that can be applied at each source. That is true for both the EGU and non-EGU strategies. As a matter of course in Agency rulemakings and per relevant federal executive orders and guidance, EPA prepares a regulatory impact analysis (RIA) to quantify the likely benefits and costs of certain regulatory options. Describing the effects of EPA rules is an important part of our obligation to be transparent in how we conduct our analyses. Each RIA is prepared in accordance with Executive Orders and OMB guidance, as well as the Agency's guidelines for economic analyses. Before issuing a final rule next year, EPA will carefully consider all comments and information submitted on the proposal.

51. If the answer to the preceding question is yes, what did you find?

A. According to our modeling, the operators of some electric generating units may choose to retire units and replace their generation with lower emitting electricity-generation resources as the most economically efficient strategy after taking account of additional requirements. Recent years have seen retirement of higher-emitting electric generating capacity and the addition of lower or zero emitting generating capacity replacing it; the incremental annual retirement of generating resources predicted by modeling to occur in response to the proposed rule (as measured in GW of generating capacity) is much smaller than the average annual amount of retirement observed over recent years.

52. In previous regulations to address interstate air transport, has EPA ever included source categories beyond electric generating units and large industrial boilers?

A: The 1998 NO_x SIP Call established statewide NO_x emissions budgets to address transport of emissions contributing to high summertime ozone levels. The total budgets that EPA established for states reflected highly cost-effective emissions reductions that EPA projected were achievable not just from EGUs and large non-EGU industrial boilers, but also from large non-EGU industrial combustion turbines, stationary internal combustion engines, and cement manufacturing plants. *See* 63 Fed. Reg. 57,356, 57,365 (Oct. 27, 1998). As an option that states could use to achieve the portion of the overall statewide emissions reductions that EPA projected were achievable from EGUs and large non-EGU industrial boilers and large non-EGU combustion turbines, EPA established a model NO_x budget trading program for these types of sources. States also had the option to obtain emissions reductions from other non-EGU stationary industrial sources of NO_x (such as refineries, aluminum smelters, iron and steel manufacturing plants, etc.) in their SIPs to ensure these emission-reduction obligations were met or even exceeded. In addition, for purposes of addressing interstate ozone transport, the CAA requires states within the Ozone Transport Region (OTR) to meet Reasonably Available Control

Technology (RACT) requirements, as directed by CAA Section 184. These and other requirements apply for a wide variety of industrial source types outside EGUs and large industrial boilers, regardless of those states' ozone nonattainment status. EPA has worked closely with the states in the OTR to implement these requirements since they were first mandated in the 1990 Clean Air Act Amendments, achieving substantial improvements in air quality along the eastern seaboard.

53. EPA recently released details of the Clean School Bus Program, established through the Infrastructure Investment and Jobs Act (IIJA). The Agency intends to provide replacement funding up to \$375,000 for electric school buses and up to \$30,000 for propane school buses. These funding levels represent over 100 percent of the cost of an electric bus but less than 30 percent of a propane bus. What specific statutory authority in IIJA allows EPA to fund propane buses at less than 30 percent of the total cost while fully funding electric buses under the new program?

A: Section 741(b) of the Energy Policy Act of 2005, as amended by Section 71101 of the IIJA, requires the Administrator to establish the Clean School Bus program and award fifty percent of the allocated funding to replace existing school buses with zero-emission school buses and fifty percent to replace existing school buses with clean school buses and zero-emission school buses. Congress directed EPA in implementing the CSB program to consider setting funding amounts that would facilitate bringing new technologies to scale or promote cost parity between old technology and new technology. In designing the Clean School Bus Rebates, the first of several funding opportunities that will be offered, EPA considered a number of factors, drawing on its experience in implementing the DERA Diesel Emissions Reduction program, which has established federal cost share levels for specific technologies and applications. Congress directed the agency to consider technologies that most reduce emissions in establishing the parameters of the program. While the emissions performance of propane fueled school buses is an improvement over diesel fueled school buses for certain pollutants, and thus appropriately included as an eligible clean school bus technology, electric buses emit zero emissions where they're used, including at prioritized school districts and nearby communities. EPA also considered relative costs of electric-powered buses and propane-fueled buses. EPA took these considerations into account and believes this range of cost shares for newly purchased electric buses as included in the rebate program is an appropriate response to these factors.

54. What emissions data did EPA examine to determine which technologies would reduce the most emissions under the Clean School Bus Program? Can you provide that analysis?

A: EPA looks at a variety of data sources when evaluating technology performance. These sources include the EPA certification database, technical papers and reports, and data shared by individual manufacturers. Another data source EPA used in evaluating school bus technologies is the DOE's Alternative Fuels Data Center.

55. Do you believe that high gas prices are just a side effect of the energy transition and can be expected to continue under the Biden Administration's policies?

A: No. Gasoline prices are high because Vladimir Putin chose to make an unprovoked attack on the Ukrainian people. This has driven up world crude oil prices and the prices for all fuels along with it, not just gasoline. In response, the President announced, among other measures, the largest release of oil reserves in history, putting one million additional barrels on the market per day on average – every day – for six months.

56. EPA recently finalized its light duty vehicle standards that included an embedded mandate for 17 percent EV sales in 2026. Will EPA consider including the life cycle emissions from mineral resource extraction, vehicle, and battery production into the light-duty vehicle program?

A: The EPA emission standards for light-duty vehicles are performance-based standards and do not include an embedded mandate for electric vehicles. The EPA standards are grams-per-mile of CO₂, and manufacturers choose what technologies they will utilize to meet the standards, including but not limited to electric vehicles. EPA agrees that topics such as lifecycle analysis, the supply chain, and critical materials for battery electric vehicles are important. EPA will consider these topics and others as we develop new standards for model year 2027 and later light-duty vehicles. We will continue to work with all stakeholders to better understand these issues, including our colleagues at the Department of Energy who have expertise in a number of these topics.

57. Has EPA quantified the lifecycle emission impacts from large-scale electrification of the transportation sector?

A: In previous EPA regulatory actions to establish or revise GHG emission standards for light-duty vehicles we have included estimates of the upstream and downstream emissions impacts from vehicle electrification. Analysis was performed in the 2012 final rule establishing GHG standards for Model Years 2017 – 2025, in the 2020 final rulemaking for GHG standards for Model Years 2021 – 2026, and in the 2021 final rulemaking for GHG standards for Model Years 2023 – 2026.

Senator Inhofe:

1. Oil and natural gas companies play a significant role in state economies by contributing to state and local taxes, providing good paying direct and indirect jobs, and supporting royalties that pay for schools, universities, and roads.
 - a. How will EPA's proposed oil and gas emission regulations consider the benefits of oil and natural gas?

A: Oil and natural gas play an important role in our economy. Its production and use also cause pollution and contribute to climate change. As a matter of course in Agency rulemakings and per relevant federal executive orders and guidance, EPA prepares a regulatory impact analysis (RIA) to quantify the likely benefits and costs of certain regulatory options. Describing the effects of EPA rules is an important part of our obligation to be transparent in how we conduct our analyses. Each RIA is prepared in accordance with Executive Orders and OMB guidance, and Agency’s guidelines for economic analyses.

2. As you know, EPA’s air office is taking the lead on the proposed ozone Transport Rule. The North American Electric Reliability Corporation issued its Summer Reliability Assessment placing the Southwest Power Pool (SPP), which covers Oklahoma, on an elevated risk for reliability.
 - a. How will you ensure that any concerns raised by the SPP and other reliability entities are fully addressed in any final Transport Rule?

A: EPA issued the proposed Good Neighbor rule in order to carry out the Agency’s obligation under the Clean Air Act to ensure that states avoid pollution that contributes to unhealthy air quality in downwind communities. In crafting power sector regulations such as the proposed Good Neighbor rule, preserving the power sector’s ability to deliver reliable and affordable electricity is a paramount consideration. EPA has an excellent track record of delivering public health and environmental protections in ways that are fully consistent with protecting grid reliability. Both past and present rules reflect robust resource adequacy and reliability considerations in our analysis, as well as implementation safeguards to serve as a backstop if any tensions between reliability and environmental charges were to arise. EPA also actively engages directly with the electricity sector in the course of our rulemakings, including system operators, state regulators, DOE, FERC, and other parties that have the know-how and responsibility for ensuring reliability and affordability.

NERC’s recent report anticipating the possibility of blackouts and brownouts in areas of the country this summer did not identify EPA regulations as creating a reliability issue, and our Good Neighbor proposal does not require the shutdown of power plants. EPA will carefully consider comments from all stakeholders on the Good Neighbor proposal, including comments and information on reliability issues, in order to craft a final rule that complies with the Clean Air Act while allowing power companies to continue delivering reliable and affordable electricity.

- b. Will you commit to a formal and open meeting with the SPP to evaluate the impacts this Transport Rule will have on grid reliability?

A: Under Administrator Regan’s leadership, EPA remains committed to integrating environmental priorities with other priorities, including grid

reliability. One way we do that is by engaging with all stakeholders and hearing first-hand how our work is affecting them. I welcome these conversations and will continue to engage in them regularly if I am confirmed.

3. On March 25th, in response to Russia’s unprovoked and unjustified attack on Ukraine, President Biden announced actions intended to support Europe’s reduced dependency on Russian fossil fuels. To support Europe’s effort to reduce its energy dependency on Russia, it is essential for the U.S. to increase exports of U.S. liquefied natural gas to Europe. The EPA has the potential to substantially increase the cost and uncertainty of this goal, thus jeopardizing the United States’ ability to support Europe’s shift away from Russian energy, if EPA does not provide for a consistent and appropriate regulatory framework.
 - a. If confirmed to be the Assistant Administrator of the Office of Air, will you ensure that EPA’s regulatory framework provides the consistency and balance necessary to support the increased export of Liquid Natural Gas to our allies in Europe?

A: Russia’s unjustified, unprovoked, and unconscionable war against Ukraine, and its ongoing destructive military campaign, have had a profound impact on global and domestic energy markets. EPA is committed to following the President’s leadership and acting according to our authorities by following the science and the law in a transparent manner.

4. The EPA recently issued new mobile source Greenhouse Gas (GHG) standards (in grams of CO₂ per mile, g/mi) for light-duty vehicles and has proposed related standards for heavy-duty trucks. Both of those standards embed what EPA describes as a “multiplier” that gives electric vehicles and trucks more so-called “GHG credits” than are actually achieved in reality.
 - a. Will EPA provide the cost of these credits or at least estimated market value of these credits?

A: For the light-duty rule finalized in December 2021, EPA established a voluntary, optional provision that would allow vehicle manufacturers to earn additional “multiplier” credits for the sale of electric vehicles. These credits are limited to a short period of time (model years 2023 and 2024 only), and their use is capped. EPA’s overall cost analysis for the rule reflected the fact that manufacturers could take advantage of the multiplier flexibility.

For the heavy-duty rule proposed in March 2022, EPA requested comment on potential approaches to modify or limit the credit multipliers provided under the existing regulations for heavy-duty GHG emissions. As with the light-duty program, the existing multipliers are a voluntary and temporary provision. EPA is considering comments received on the March 2022 heavy-duty proposal in developing the final heavy-duty credit program.

- b. If you do not know the cost or have estimates of these credits, how do you meet your requirements to perform a cost-benefit analysis for these rules?

A: As discussed in the response above, the multiplier credits are a voluntary option for manufacturers which we expect would only be used if it were cost-effective to do so. EPA's final rulemaking analysis satisfies all requirements for cost-benefit analysis.

5. EPA recently reinstated a waiver to both retroactively and prospectively give the state of California the authority to adopt its own electric vehicle (EV) mandates and GHG standards for light-duty vehicles. The California EV standards have been adopted by about 15 other states.

- a. Are the costs of the zero-emission vehicle (ZEV) credits created by California, endorsed by EPA, and adopted by 15 states, only paid for in the 15 states that have adopted the mandate?

A: EPA does not administer California's ZEV sales mandate and GHG standards for light-duty vehicles. Likewise, EPA does not administer the light-duty vehicle programs of states that have adopted California's standards (known as section 177 states). As part of the Agency's adjudicatory review of a CA waiver, we follow the requirements of Clean Air Act section 209.

- b. Does that lack of transparency violate any federal or state consumer protection/deception laws?

A: EPA does not administer or implement California's mobile source program.

- c. What is the market value of these "ZEV credits"?

A: EPA does not track the market value of ZEV credits under the California Advanced Clean Cars program and does not administer California's program.

- d. How are the automakers compensated for these credits?

A: EPA does not administer or implement California's program, including the details of the ZEV credits. Credit transactions between auto companies are determined by the terms they negotiate.

6. The U.S. has a net trade imbalance of over \$109B per month, driven by imports from countries that do not have environmental standards remotely close to the U.S. and who produce significantly higher particulate matter 2.5 (PM2.5) (and GHG) emissions than if those products were manufactured in the U.S.

- a. Does the U.S. have lower average PM_{2.5} concentrations than Europe, Asia, Africa and South America, yes or no?

A: EPA does not have adequate data to make a comparison at a continental scale.

- b. As EPA implements rules to reduce domestic PM_{2.5}, does the EPA consider in its cost-benefit analyses that these rules make it more uneconomic if not impossible to obtain an EPA air permit to develop natural resources or manufacture products in the U.S., reducing the jobs, wages, and health benefits that accrue from families having good paying job?

A: As a matter of course in Agency rulemakings and in accordance with Executive Orders and OMB guidance and the Agency's guidelines for economic analyses, EPA prepares a regulatory impact analysis (RIA) to quantify the likely benefits and costs of certain regulatory options. Describing the effects of EPA rules is an important part of our obligation to be transparent in how we conduct our analyses.

Regarding reducing domestic PM_{2.5} emissions, between 1980 and 2021, gross domestic product in the U.S. increased 187 percent, vehicle miles traveled increased 111 percent, energy consumption increased 25 percent, and U.S. population grew by 46 percent. During the same time period, total emissions of the six principal air pollutants, including PM_{2.5}, dropped by 73 percent. Experience shows that both improving air quality and maintaining a healthy economy go hand in hand.

7. In December 2020, the American Innovation and Manufacturing (AIM) Act was enacted by Congress and, in part, directs EPA to support the phasedown of the production and consumption of hydrofluorocarbon (HFC) refrigerants. Unfortunately, the EPA's rule that was finalized on the AIM Act is believed to potentially cause significant harm to America's small businesses. As part of your rule, you have banned American non-refillable cylinders, which are used by companies across America to install air conditioners for homes and businesses.
 - a. What is your timeline for responding to the remaining petitions for administrative reconsideration for the AIM Act rulemaking that you concluded last year?

A: We have received and are reviewing petitions for Partial Administrative Reconsideration on this topic filed by Worthington Industries and Heating, Air-conditioning & Refrigeration Distributors International (HARDI). This is in addition to the petitions for judicial review filed by Worthington, HARDI, and others in the HVAC industry. Issues related to the refillable cylinder requirement have been raised in the case pending before the U.S. Court of Appeals for the D.C. Circuit. At this time, the Agency is

considering the best path forward regarding the petitions for Partial Administrative Reconsideration recognizing the ongoing petitions for judicial review pending before the D.C. Circuit.

Senator Cramer:

1. Mr. Goffman, during your nomination hearing I asked if you had contacted North Dakota's three Public Service Commissioners Julie Fedorchak, Randy Christmann, and Sheri Haugen-Hoffart, and the Director of North Dakota's Department of Environmental Quality (NDDEQ), Dave Glatt, while you examine potential rulemaking options to reduce emissions from power plants. You stated you had not contacted them, but respectfully thanked me for providing the names of individuals you should be in contact with.

a. Will you commit to engaging with Director Glatt at NDDEQ and Commissioners Fedorchak, Christmann, and Haugen-Hoffart as you examine options for a new rulemaking for stationary source emissions under the Clean Air Act?

A: Thank you again for providing the names of the key leaders in the power sector in your state. My team and I commit to engaging with them.

2. Mr. Goffman, NDDEQ recently released its draft State Implementation Plan to comply with round two of the federal Regional Haze rule. As you know, the rule applies to visibility in Class One areas, which in North Dakota include the north and south units of Theodore Roosevelt National Park and the Lostwood Wilderness Area. NDDEQ's first visibility plan achieved half of the goal set in the Regional Haze program, which means the progress already made by North Dakota is more than a decade ahead of federal regulations.

a. Was it ever the intent of the Regional Haze program to punitively target or even eliminate specific types of electric generation?

A: No. The Regional Haze program is designed to improve visibility in our nation's treasured national parks and wilderness areas, including Theodore Roosevelt and Lostwood in North Dakota, and other parks such as the Grand Canyon, Yosemite, the Great Smokies and Shenandoah. In implementing this important Clean Air Act program, EPA seeks to further that statutory purpose in a manner that conforms to the statute, the Regional Haze Rule, and relevant guidance.

b. Will you commit to upholding EPA's statutory obligation of cooperative federalism by working with the state to approve and implement the State Implementation Plan North Dakota submits to the EPA?

A: We are committed to supporting state efforts to develop regional haze SIPs that comply with the Clean Air Act (CAA) and Regional Haze Rule as we work together to prevent impairment of visibility in Federal Class I areas. Once a final SIP is submitted, EPA action on SIPs occurs through notice and

comment rulemaking. This is a transparent process and has opportunities for stakeholder input through the public comment period.

3. Mr. Goffman, the North American Electric Reliability Corporation (NERC) published their Summer 2022 power assessment which found widespread reliability concerns. The assessment and those from independent system operators highlight the displacement of reliable fossil fuel generation sources by intermittent sources of power are placing large swaths of the country at increased risk of power outages this year. In fact, the two independent system operators in North Dakota, MISO and SPP, are at high and elevated risk, respectively for insufficient resources this summer. Coal fired power generation has capacity values higher than 90% while wind's capacity value is 15% and MISO expects the accredited value for solar to be 20%. Without adequate resources, grid operators initiate load shedding or rolling outages to prevent the system from totally collapsing.
 - a. Do you believe coal fired power plant retirements are degrading the reliability of the electric grid?
 - b. Do you believe increased load shedding is an acceptable direction for our nation's electric grid?
 - c. Will you commit to working with NERC and every independent system operator as you contemplate new power plant regulations?
 - d. How will the increased deployment of intermittent generation like wind and solar effect grid reliability?
 - e. What is the estimated electricity supply cost per megawatt hour of a 100 percent renewable and battery grid?

A: EPA has a responsibility to address the harmful health and environmental impacts resulting from power plant pollution. I am committed to using EPA's authorities to address these impacts, as our nation's environmental laws require, while also prioritizing reliability and affordability for families and the electricity sector. EPA actively engages directly with the electricity sector including system operators, state regulators, DOE, FERC, and other parties that have the know-how and responsibility for ensuring reliability and affordability.

NERC's recent report anticipating the possibility of blackouts and brownouts in areas of the country this summer did not identify EPA regulations as creating a reliability issue, and our power plants regulations do not require the shutdown of power plants. EPA has a history of delivering public health and environmental protections in ways that are fully consistent with maintaining grid reliability. Both past and present rules reflect robust resource adequacy and reliability considerations in our analysis, as well as implementation safeguards to serve as a backstop if any tensions between reliability and environmental charges were to arise.

With respect to your request for an estimated electricity supply cost per megawatt hour of a 100 percent renewable and battery grid, EPA currently does not have an estimate. EPA's models are based on current market conditions and optimize based on least cost, subject to any additional constraints.

4. Mr. Goffman, it is clear that one goal of the Biden administration is to increase the number of electric vehicles in an attempt to reduce emissions from the transportation sector. EPA recently finalized its light duty vehicle standards which included an embedded mandate for 17% EV sales in 2026. EVs are not zero emission when evaluated on a life cycle basis. Additionally, several studies have indicated the ambitious EV goals of just California alone could exhaust the world's mineral resources, requiring extensive new mining operations.

a. Considering these realities, would the EPA ever consider including the life cycle emissions from mineral resource extraction, vehicle, and battery production into their programs?

A: EPA agrees that topics such as lifecycle analysis, the supply chain, and critical materials for battery electric vehicles are important. EPA will consider these topics and others as we develop new standards for model year 2027 and later light-duty vehicles. We will continue to work with all stakeholders to better understand these issues, including our colleagues at the Department of Energy who have expertise in a number of these topics.

b. Has the EPA ever quantified the lifecycle emission impacts from large scale vehicle electrification?

A: In previous EPA regulatory actions to establish or revise GHG emission standards for light-duty vehicles we have included estimates of the upstream and downstream emissions impacts from vehicle electrification. Analysis was performed in the 2012 final rule establishing GHG standards for Model Years 2017 – 2025, in the 2020 final rulemaking for GHG standards for Model Years 2021 – 2026, and in the 2021 final rulemaking for GHG standards for Model Years 2023 – 2026.

c. I believe automakers have not met EPA tailpipe standards since 2016, how will they meet much more stringent standards going forward?

A: All major automotive companies have complied with EPA's GHG standards since they first went into effect for Model Year 2012, including in the time frame since Model Year 2016. Companies comply with EPA standards in general through the mechanisms EPA established for demonstrating compliance - by adding technology to reduce the GHG emissions, using credits they have banked from previous years, and through

the trading of credits between companies. In addition to these compliance mechanisms, for the recently revised standards for model years 2023 through 2026, EPA also established additional optional credit opportunities to provide manufacturers with additional flexibility.

- d. What are the implications for consumers if they do or do not meet the more stringent standards?

A: As discussed in the response to Question 4c, the automotive industry has been complying with EPA standards, and as detailed in EPA's regulatory analysis performed to establish the standards, these standards can benefit consumers. For example, our analysis conducted for the recent final rulemaking completed in December 2021 projected that the increased vehicle purchase price will be more than offset by fuel savings as cars become more efficient and electric vehicles become more available.

- e. What will happen if the requisite electrical grid and other market changes do not come to fruition or if consumers do not want to buy more expensive electric vehicles?

A: As automakers have begun to ramp up electric vehicle production, the power sector is also modernizing. EPA expects that the additional needs for vehicle charging will be a key part of that ongoing modernization. We also believe the substantial fuel cost savings provides a strong case for consumers to purchase electric vehicles, which are increasingly being offered in many vehicle categories and at a wide range of prices.

Senator Lummis:

1. I am curious to better understand the outreach EPA has done, specifically the refining or upstream sector, on ways to provide relief to consumers?

A: Under Administrator Regan's leadership, EPA and especially the Office of Air and Radiation remains committed to integrating environmental and economic priorities. One way we do that is by engaging with all stakeholders and hearing first-hand how our work is affecting them. This includes meetings at all levels of the Agency from the Administrator's Office to the Office of Air and Radiation leadership and to the technical staff with the labor union representatives and industry leaders in the refining and upstream sector. EPA is committed to continue to engage with all stakeholders.

As one example of this engagement, EPA staff met on multiple occasions with small refineries, including those located in Wyoming, in advance of our December 2021 proposal regarding Small Refinery Exemption petitions and documented our consideration of their input in specific appendices to our small refinery decisions.

2. In December and then again in March, EPA announced a plan in which to fundamentally change the RFS program by denying all pending SRE applications and “retroactively” deny all small refinery exemptions that were previously granted in 2018. Would you agree that this is a major departure from how the program was structured since 2008?

- a. How involved was the White House and Administrator Regan in this decision?

A: Administrator Regan has committed to getting the RFS program back on track. That means following the law and the record in each case and providing certainty. Our recent decisions on small refinery exemptions reflect our understanding of recent court decisions telling us that we had not applied our statutory authority or our own analysis of the fuel market correctly. We will continue to address small refiners’ exemption applications including those still pending based on our legal authority and the record in each application.

Before issuing the denials, we followed Administrator Regan’s commitment to transparency by proposing the basis for our action and inviting small refiners to provide comment and additional information.

3. How many independent refining companies have you met with since you’ve been your Acting Administrator role? Based on your public schedule, in the past six months you took ten minutes to contact a trade association that includes some independent refining companies.

A: I was Acting Assistant Administrator from January 2021 to November 2021. I am currently serving as the Principal Deputy Assistant Administrator and have been since November 2021.

Under Administrator Regan’s leadership, EPA remains committed to integrating environmental and economic priorities. One way we do that is by engaging with all stakeholders and hearing first-hand how our work is affecting them. This includes meetings at all levels of the Agency from the Administrator’s Office to the Office of Air and Radiation leadership and to the technical staff with the labor union representatives and industry leaders in the refining and upstream sector. We understand the importance of the refining sector and we are committed to continuing to engage with all stakeholders, including independent and other refineries.

One example of this engagement is the large group meeting we held on the Small Refinery Exemption (SRE) program last year. In advance of our December 2021 proposal regarding SRE petitions, I invited multiple representatives from 13 companies with small refinery associations to discuss the SRE program. This meeting was important to me, and we worked hard to ensure that all interested

parties were able to participate and had a chance to share their views. In particular, we wanted to create a forum for small refineries to highlight the roles they play in their communities, share the challenges they face, and discuss other common experiences. Subsequent to that meeting, my staff and I have continued to meet on multiple occasions with small refineries, including those located in Wyoming. We documented our consideration of their input in specific appendices to our small refinery decisions.

4. Due to demand destruction from COVID and government regulation we have lost one million barrels a day of refining throughput since 2020. Two additional refineries totaling almost 600,000 bpd have announced their closure within a year or so. The real world economic impact of this is 5,000 high paying jobs. If confirmed, will you agree to meet regularly with refining companies to help them identify ways the Administration can reduce costs at the pump?

A: Yes. I am committed to continuing to engage with all stakeholders.

5. We had a witness before the EPW Committee on the RFS the other month that noted the program is adding 30 cents per gallon to consumer fuel costs. Now, Wells Fargo released an equity research note highlighting the same impact and other industry analysts, whom have no affiliation with refining companies, are concurring this is one of the biggest tools in the Administration's tool chest to reduce fuel costs. The law says you have to now assess cost to consumer when setting the mandate and your boss, Administrator Regan, said at a recent hearing that the EPA was taking into account consumer fuel costs when finalizing the RVO. Can you commit to take into account the impact this program is having on increasing prices at the pump as you finalize the RVO and work on setting next year's standard?

A: EPA regularly assess fuel cost impacts as part of our regulatory actions. For example, in our final Renewable Volume Obligation rulemaking, which set final volume requirements for 2020, 2021, and 2022 and was issued on June 3, 2022, EPA conducted an extensive regulatory impact analysis, which looked at fuel costs and retail price impacts. EPA will continue to conduct such analysis as part of future RFS rulemakings. Overall, our analysis concluded that the RFS program has impacts on gasoline prices of less than a penny per gallon.

6. On the what I will call "blanket denial" rule, did EPA consult with DOE on the decision to deny all SREs?

A: As required by the CAA, EPA consulted with DOE and considered the DOE Study and other economic factors in conducting the evaluation that resulted in the December 2021 Proposal and the April and June 2022 Denials. That process is described in the decision, and documentation of the consultation process is available in the docket.

- a. If so, did you choose to ignore DOE's recommendations? If not, are you aware this is mandated by Congress?

A: EPA did carefully review and consider the results of DOE's 2009 and 2011 studies as well as consult with DOE as required by Clean Air Act section 211(o)(9). EPA's consideration of the studies and consultation with DOE are described in the decision documents and docket for these actions.

Senator Sullivan:

1. Alaska has a fine particulate matter nonattainment area in the Fairbanks area that is predominantly caused by wood smoke. The community has been working hard to reduce those emissions and an important part of the solution has been to replace older wood heaters with newer, cleaner models. Alaska, working with other states, has found serious issues with the accuracy and reliability of EPA-approved wood heater emission certifications. Will you commit to working with states to address the problems in the wood heater certification program so states can ensure clean stoves are being installed and achieve emission benefits?

A. Yes. We will continue to work closely with the Alaska Department of Environmental Conservation and the Fairbanks North Star Borough, as well as other states seeking to address woodsmoke pollution, to tackle the woodstoves challenges they have identified.

2. Alaska is being held to a very high standard by EPA in planning and implementing emission control programs in the Fairbanks fine particulate matter nonattainment area. Some of these requirements may have minimal effect on solving the problem. Will EPA use its flexibility to allow Alaska to implement the community's plan that is focused on the major sources of air pollution?

A: We will continue to work closely with the Alaska Department of Environmental Conservation and the Fairbanks North Star Borough to provide support to help Alaska develop and implement its PM2.5 attainment plan in a manner that recognizes the value of allowing communities to develop their own plans and is consistent with the Clean Air Act's requirements.

3. Regarding Regional Haze, in Alaska some Class 1 areas are visited by very few people, less than one visitor per year on average, and visibility is so close to natural conditions that differentiating between natural variability and impacts from human activity is slim. What does it mean to achieve "natural conditions"?

A: The Clean Air Act set the national visibility goal as "the prevention of any future, and the remedying of any existing, impairment of visibility in mandatory class I Federal areas which impairment results from manmade air pollution." The Regional Haze Rule requires states to develop long-term strategies that ensure reasonable progress towards this national visibility goal. The rule does not require states to eliminate all anthropogenic air pollution. Natural visibility conditions are

used as part of the analytical framework for developing the content of a state plan and explaining to the public the expected aggregate benefit for visibility in Class I areas. The rule contains no date by which the elimination of anthropogenic impacts (i.e., natural visibility conditions) must be met, but natural visibility remains the goal of the program as set by the Act. EPA expects that each state's plan will take state-specific approaches to determine what emissions controls to adopt based on the statutory factors.

4. As it relates to the proposed new and existing source rules for methane, the EPA's own 2010 study (EPA Natural Gas Star Program) conducted in the Alaska North Slope found that the unique wet seal compressor design used throughout the area was equivalent to dry gas seals, with greater than 99% emission control. Since dry gas seals are not subject to the EPA proposal due to their low leak rate, do you believe that the unique wet seal compressor degassing design used on the North Slope should receive the same treatment? Is it your belief that any two systems, if equivalent from a venting perspective, should receive similar treatment under the regulation?

A: The EPA received comments on the unique wet seal centrifugal compressor design that is commonly used on the Alaska North Slope. The EPA is currently evaluating those comments in relationship to the proposed rule. EPA staff have also met with those commenters to further discuss this topic. Because this is the subject of an ongoing rulemaking, it would be inappropriate for me to prejudge what final action the agency may take.

The Agency is now developing a supplemental proposal, which we intend to release later this year. The supplemental proposal is an important step in developing a final rule. It will include additional proposed regulatory text for public comment, address implementation details that were not part of the November proposal, and may revisit, refine, or expand on elements of the November proposal in response to public input.

5. During your nomination hearing, you responded "Senator, I'm not familiar with that statement" to a question about whether you agreed with the following quote from Gina McCarthy regarding the Supreme Court's pending decision on the Mercury and Air Toxics Standards (MATS) rule in *Michigan v. EPA*: "But even if we don't [win], it was three years ago. Most of them are already in compliance, investments have been made, and we'll catch up." Now that you've had time to review this quote, do you believe that Gina McCarthy's regulatory philosophy on the MATS rule was appropriate?

A: Like Administrator Regan, I am committed that all EPA actions follow science and the law, and it is especially important to me that actions taken by the Office of Air and Radiation follow the authorities under the Clean Air Act as Congress has mandated and the courts have interpreted them.

By the time the Supreme Court decided the case in question most facilities had made investments to comply with and were already in compliance with the Mercury and Air Toxics Standards.

Senator Ernst:

1. On March 9, the EPA reinstated the ability of California, and therefore the 17 other states who follow California's standards, to adopt stricter vehicle emission standards for cars and light trucks than the federal government. In 2020, Governor Newsom signed an executive order to require 100 percent zero-emission vehicles in California by 2035. This administration has classified electric vehicles as "zero emissions," while biofuels are considered "low emissions". As President Biden has said just this year and you confirmed in front of the Environment and Public Works Committee, "you can't get to net zero by 2050 without biofuels." Can you explain why the EPA is contradicting itself by publicly proclaiming biofuels are necessary to achieve net zero emissions in 2050 but also allowing approximately one-third of the US population to eliminate biofuels in sales of new cars and light trucks by 2035?

A: EPA's reinstatement of California's Section 209(b) Clean Air Act waiver means that the state can return to implementing and enforcing its own light-duty vehicle greenhouse gas emission standards and zero-emission vehicle sales mandate. It is up to California to determine how best to meet the air quality challenges that the state faces and to set its own new motor vehicle emission standards subject to the criteria in section 209(b). EPA's March 9 action also permits other states to adopt the California standards subject to the criteria in section 177 of the Clean Air Act, if they so choose. However, there is no requirement for them to do so. Biofuels are an important national strategy to reduce GHG emissions from fuel used in all transportation sources.

- a. Since electric vehicles (EVs) have a significant greenhouse gas footprint from their manufacture and battery creation, not to mention the likelihood that some of the electricity they run on is from non-renewable sources, will you acknowledge that it's not accurate to refer to EVs as Zero-Emissions Vehicles?

A: I believe it is accurate to refer to EVs as "zero-emission" because these types of vehicles produce zero tailpipe emissions.

2. At the end of December 2021, the EPA finalized a regulation setting greenhouse gas emission standards for light-duty vehicles for model years (MY) 2023 through 2026. In MY2026, EPA's regulations require 17 percent of new light-duty vehicle sales to be electric vehicles in order for automakers to meet the standards, and in your testimony, you stated for MY2026 "those standards are the most ambitious that have ever been put on the books". The EPA is now working on standards for MY2027 and beyond. As you

acknowledged, “homegrown biofuels have a role to play right now — as we work to get prices under control to reduce the costs for families.” How do you reconcile your support for biofuels with this overbearing regulation that prioritizes EVs above all else?

A: Both fuel types – electricity and renewable fuels – will play an important role in lowering the GHG emissions of the transportation sector, and EPA regulations in the Biden Administration have supported both. Even as the December 2021 light-duty vehicle GHG standards rulemaking will encourage electrification in the light duty sector, EPA on June 3 of this year finalized RFS volume requirements for 2022 that exceed any RFS volume requirements to date.

3. President Joe Biden said, and you agreed, “Biofuels is an industry with a tremendous future”. We must recognize the dually beneficial role biofuels play in curbing both fuel prices and carbon emissions. The extent to which American biomass derived energy can help is heavily reliant on your continued support for the Renewable Fuel Standard and stability within the program to help the industry function efficiently. Would you be supportive of increasing Renewable Fuel Volumes in the future?

A: I continue to agree and to that end, on June 3, 2022, EPA finalized the highest total renewable fuel volumes in history, putting the program on a stable trajectory that provides for significant growth.

- a. Would you be supportive of rules requiring the EPA to reform the RVO setting process so that RIN market participants can accurately plan for the future?

A: Administrator Regan is committed to getting the RFS program back on track. That means following the law and the record in each case and providing certainty to all stakeholders. As we develop a proposal for RVOs for 2023 and beyond, among the factors we will consider is the ability of all parties to plan ahead.

- b. Would the establishment of electric RINs, or eRINs, as a part of the Renewable Fuel Standard carry an increased risk of fraud or shrink the market for liquid biofuels?

A: Stakeholders have shown continued interest in EPA taking action to allow for the generation under the RFS program of RINs derived from renewable electricity and used in transportation fuel (eRINs), using an already-approved pathway. EPA is committed to moving forward on this matter. After reviewing input and eRIN registration applications from stakeholders, as well as information gained from previous requests for public input on eRIN program design, we determined that proposing new regulations to clarify how the program would be operated was necessary and would provide an opportunity for the public to review our proposed approach. EPA is still developing these new regulations, and we appreciate the importance of

guarding against fraud and safeguarding programmatic integrity as we consider various design elements of the eRIN program.