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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

MARY FRANCES REPKO, DEMOCRATIC STAFF DIRECTOR
ADAM TOMLINSON, REPUBLICAN STAFF DIRECTOR

February 8, 2022

The Honorable Michael S. Regan
Administrator
US Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20004

Dear Administrator Regan:

I was very disappointed to see recent news reports highlighting how the US Environmental Protection Agency (EPA) is developing a broad-based and aggressive regulatory strategy with the singular intent to target and shutter fossil-fuel power plants, including coal-fired power plants.¹ This strategy, which is allegedly being established absent direct congressional authority, unfortunately aligns with other policies and statements from this Administration over the past year, including recent comments made by White House International Climate Czar John Kerry at the 26th United Nations Conference of the Parties (COP26) in Glasgow, who stated that “[b]y 2030 in the United States, we won’t have coal.”²

Despite promises to be transparent and “work in partnership with Congress,” EPA appears to be planning to use overly expansive interpretations of several federal environmental statutes to target affordable, reliable sources of electricity generation.³ In recent statements and media interviews, you have repeatedly detailed that the Agency will implement a “very aggressive agenda” on climate policy.⁴ Details have emerged in the press that your agency is preparing to advance this comprehensive targeting of power plants through a “sector-wide roadmap” that would target greenhouse gases, conventional air pollution, and water quality.⁵ Even more concerning, many of the tools the Administration would potentially use would be for purposes not defined or even mentioned in their respective statutes.

Calendar entries confirm the Administration – led by non-confirmed officials – began planning for a comprehensive, sector-wide strategy before you were confirmed as EPA Administrator. In a

¹ Timothy Puko, *New EPA Rules to Target Power Plant Pollution*, WALL ST. J. (Jan. 25, 2022) <https://www.wsj.com/articles/new-epa-rules-to-target-power-plant-pollution-11643112003/>; Jean Chemnick, Hannah Northey, and Sean Reilly, *How Biden could close coal plants without CO2 regulations*, E&E NEWS (Jan. 24, 2022) <https://www.eenews.net/articles/how-biden-could-close-coal-plants-without-co2-regulations/>.

² Will Wade, *U.S. ‘Won’t Have Coal’ by 2030, John Kerry Predicts in Glasgow*, BLOOMBERG (Nov. 9, 2021) <https://www.bloomberg.com/news/articles/2021-11-09/u-s-won-t-have-coal-by-2030-john-kerry-predicts-in-glasgow>.

³ *Nomination of Hearing on the Nomination of Michael S. Regan to be Administrator of the Environmental Protection Agency: Hearing Before the S. Comm. on Environment and Public Works*, (Feb. 3, 2021).

⁴ Hon. Michael Regan, Address at the Washington Post Protecting Our Planet: Powering Change Event (Oct. 28, 2021); Stuart Parker, *Regan Promises ‘Very Aggressive Agenda’ On Eve Of U.N. Climate Summit*, INSIDE EPA (Oct. 28, 2021), <https://insideepa.com/daily-news/regan-promises-very-aggressive-agenda-eve-un-climate-summit?s=em>.

⁵ See *supra* note 1.

calendar entry for EPA Office of Air and Radiation Principal Deputy Assistant Administrator Joseph Goffman provided to the Committee, Mr. Goffman joined a power sector meeting on February 4, 2021 with White House Climate Czar Gina McCarthy that covered topics including criteria pollutants, effluent guidelines, coal combustion residuals, and Clean Air Act Section 111(b). Included in this calendar invitation was a document titled “EGU Strategy” referring to a strategy on Electric Generating Units (EGU), or power plants.

Last January, Gina McCarthy claimed that, “You can ask us questions. We can be transparent and accessible to you because we don’t have anything to hide.”⁶ In order to understand the approach the Biden Administration is taking with regards to the power sector, it is necessary to evaluate all information upon which you are relying for this broad regulatory effort. No details about this comprehensive, sector-wide strategy targeting affordable, reliable sources of electricity generation have been provided to Congress or otherwise explained to the American people.

Please provide the following items to the Committee no later than February 22, 2022:

1. All documents and communications related to the development of any EGU Strategy or power sector-wide strategy or roadmap, including all versions of the “EGU Strategy” developed by EPA.
2. All documents and communications related to the incorporation or consideration of any power sector-wide strategy or roadmap in the development of the nationally determined contribution (NDC).
3. A list of all White House and EPA staff involved in the development of any power sector-wide strategy or roadmap.

Thank you and I look forward to your reply.

Sincerely,



Shelley Moore Capito
United States Senator

⁶ Society of Environmental Journalists, *2021 Journalists’ Guide to Energy & Environment* (Jan. 27, 2021), <https://vimeo.com/503178691>.