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Committee on Environment  
and Public Works Washington, D.C.

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COOPERATIVE FEDERALISM UNDER THE CLEAN AIR ACT: STATE  
PERSPECTIVES

TUESDAY, APRIL 10, 2018

U.S. SENATE

Committee on Environment and Public Works

Subcommittee on Clean Air and Nuclear Safety

Washington, D.C.

The subcommittee met, pursuant to notice, at 10:03 a.m. in room 406, Dirksen Senate Building, the Honorable Shelley Moore Capito [chairwoman of the subcommittee] presiding.

Present: Senators Capito, Inhofe, Boozman, Wicker, Fischer, Ernst, Whitehouse, Carper, Gillibrand, Markey and Barrasso [ex officio].

STATEMENT OF THE HONORABLE SHELLEY MOORE CAPITO, A UNITED STATES  
SENATOR FROM THE STATE OF WEST VIRGINIA

Senator Capito. I want to thank everybody for being here today. I apologize for getting started a couple minutes late.

This hearing of the Clean Air and Nuclear Safety Subcommittee is called to order.

I will begin by recognizing myself for a brief opening statement before turning over the floor to the Ranking Member, Senator Whitehouse, for five minutes. Then we will hear from our panel of expert witnesses.

I will recognize myself for five minutes.

The concept of cooperative federalism is enshrined in all of our major environmental statutes. The Clean Air Act is no exception. Previous Congresses realized that environmental preservation and its importance to human health, the economy and the public's enjoyment of our Country's national heritage is the responsibility of government at every level.

Predecessors also recognized that different levels of government should have different responsibilities. Not every aspect of our environmental policy can or should be dictated from here in Washington.

The EPA lacks the expertise and the capacity to conduct oversight on our ecologically and industrially diverse Country. The EPA's role must be to dutifully implement environmental laws

as crafted by Congress and then to collaborate and support our States with matters within our jurisdiction.

The States know their environmental and economic opportunities and challenges better than anyone else. The system has clearly worked. Even without the implementation of the Clean Power Plan, U.S. carbon dioxide emissions peaked in 2005. Since then we have seen a decline in carbon emissions of 12.4 percent in absolute terms and 19.9 percent on a per capita basis.

These reductions have been led by the private sector seeking greater efficiencies to lower costs for their consumers and not by government mandates. Since 2000, the U.S. has reduced its carbon footprint by greater tonnage than any other Country.

According to the EPA, since 1970, national concentrations of air pollutants have been reduced by 85 percent for lead, 84 percent for carbon monoxide, 67 percent for sulphur dioxide, 60 percent for nitrogen dioxide, 37 percent for fine particulate matter, and 69 percent for coarse particulate matter. These achievements have reduced mortality rates and health care expenditures due to air pollution, benefitted agriculture by improving yields and helped to preserve habitats and threatened species.

Economic growth has continued even as emissions have

declined. Setting achievable, consensus-based standards in consultation with industry, State, local and tribal governments has decoupled emissions and for the first time in recent years, energy consumption itself, from economic growth.

In 1970, our GDP was \$1.09 trillion. Today, it is \$19.74 trillion. Even with all the emission reductions, clearly the model has worked. Yet, it has been under pressure.

The Obama Administration upended the consensus-based model for setting environmental regulations. We had several hearings that flushed out this. The EPA imposed standards across a host of industries, especially the power sector, that were unachievable with commercially-available technologies.

Their economic analysis routinely overstated the benefits and under stated the economic costs associated with the regulations. I have heard from my constituents in the public and private sector in my State of West Virginia that their comments were routinely ignored.

Finally, underscored by the Clean Power Plan, the EPA routinely overstepped its jurisdiction. For its part, the CPP attempted to regulate "beyond the fence line," directing States to impose carbon taxes on cap and trade structures to achieve emissions targets that could not otherwise be met.

This is why the EPA never provided model State implementation plans for the Clean Power Plan. The data simply

could not be tortured enough to make its implementation by the States legal or importantly, feasible.

During all of this, State clean air regulators, like those before us today, were sidelined. Have the States sued and it is no wonder they did.

I hope we can work across the aisle with every level of government and private industry to continue the good work we have set in place. If we follow the law, pursue goals achievable with modern technology and control methods, and collaborate, we can continue to grow the economy while reducing emissions.

We must also never lose sight of the fact that the American dream of economic prosperity is what provided our citizenry with two centuries of continuous advancements in health and development, which in itself has enabled our modern focus on environmental improvement. Far from zero-sum, economic and environmental benefits track together.

I look forward to hearing from our State experts from across the Country about their ideas on how to continue this cycle based on their experiences engaging with the EPA.

I will now recognize Ranking Member Whitehouse for his opening statement.

[The prepared statement of Senator Capito follows:]

STATEMENT OF THE HONORABLE SHELDON WHITEHOUSE, A UNITED STATES  
SENATOR FROM THE STATE OF RHODE ISLAND

Senator Whitehouse. Thank you very much, Senator Capito.

I welcome the witnesses here today.

We are here to talk about cooperative federalism, two words which have become something of a mantra for EPA Administrator Scott Pruitt. They are among his most trusted talking points, right up there with another favorite catch phrase, "back to basics."

What does cooperative federalism really mean?

Particularly, what does it mean to Administrator Pruitt?

Cooperative federalism should mean that EPA and the States work together to reduce pollution. Reducing pollution involves doing scientific analyses, gathering data, writing rules, setting targets, and enforcing the rules and targets. This work can, and should, be done together by EPA and the States.

It used to be but that is not what Scott Pruitt means by cooperative federalism. The Pruitt cooperative federalism means having EPA do less to reduce pollution and hand over more of the work to the States, all while proposing fewer financial resources to the States to do this work.

If some States are less interested in reducing pollution or do not have the resources to develop and enforce rules limiting pollution, then so much the better because you see, that is

Pruitt's goal here. Cooperative federalism is code for EPA and some States walking away from their core mission of protecting human health and the environment.

The proof is that at any time a State takes strong action to reduce pollution, Pruitt's EPA either opposes the initiative or slow walks it. Pruitt's version of cooperative federalism is a one-way street towards more pollution. States are encouraged to take the lead in reducing pollution so long as they do not actually try to reduce pollution.

Pruitt's recent decision to water down corporate average fuel economy standards, the CAFÉ standards, is an example of how cooperative federalism, under Pruitt, really works. These CAFÉ standards were negotiated in 2012 by EPA, California and the auto industry. All parties agreed to these standards which are estimated to save consumers \$1.7 trillion at the pump, an average of \$8,000 over the life of a car purchased in 2025 and, of course, to reduce carbon emissions by 6 billion metric tons.

Why did Pruitt decide to roll back those agreed to CAFÉ standards? Not because California asked him to, but because industry did. Is it cooperative federalism to ignore the States and do industry's bidding?

When you get beyond the rhetoric, Pruitt is not really interested in cooperative with States. His real interest is in cooperating with corporations which have bankrolled his entire

political career. You might actually call it cooperative corporatism.

Now that California, Rhode Island, Delaware and many of the other ten States and the District of Columbia that follow California emission standards have objected to his decision to water down the CAFÉ standards, Pruitt has suggested that he may revoke the waiver granted to California under the Clean Air Act that allows it to set its own emissions standards. How is that for cooperation?

Pruitt's desire to centralize decision-making in his own hands is not limited only to the Clean Air Act. He recently announced that all decisions relating to determining whether a project has a significant environmental impact on waterways will be made by him. So much for local control and cooperative federalism.

My home State of Rhode Island has a long coastline that is particularly vulnerable to sea level rise. The CAFÉ standards represent an important part of our efforts to combat climate change, which is responsible for sea level rise.

The Clean Power Plan is also critical to reducing the carbon emissions driving climate change. Pruitt is trying to repeal that too. Do you think he consulted with Rhode Island officials or the officials in any coastal State on repealing the Clean Power Plan?

If you need any further proof that Scott Pruitt's cooperative federalism is a one-way street sham, must look at his proposed budget for fiscal year 2019. He proposes cutting grants to the States for clean air programs by over \$160 million. Some programs he eliminates entirely.

Rhode Island's Department of Environmental Management receives about \$10 million a year in grants from EPA. About \$2.4 million of this goes to clean air programs. How does Pruitt expect States to step up and lead on protecting clean air when he tries to cut the money they receive to do this work?

The answer is, he does not. Scott Pruitt's mission at EPA is cooperative corporatism, to serve the interests of the industry that has always backed him. You see this in decision after decision where State input is ignored. You see this in industry cronies installed at EPA.

Scott Pruitt has sullied the doctrine of cooperative federalism just as his disregard for EPA's mission has sullied the agency and his actions stand to sully our environment.

I salute States like Rhode Island, California and Delaware that are working so hard to protect our environment. We do it better with an effective partner in the EPA. It is time for EPA to get serious about protecting the environment and public health. That, after all, is its true mission.

Thank you, Madam Chair.

[The prepared statement of Senator Whitehouse follows:]

Senator Capito. Thank you, Senator.

To begin our introductions, Chairman Barrasso is here. I would ask if you would like to introduce our witness from Wyoming?

Senator Barrasso. Thank you very much, Madam Chairman.

I would and I am so pleased to introduce Nancy Vehr who serves as the Air Quality Administrator for the Wyoming Department of Air Quality.

Administrator Vehr has led Wyoming's efforts to improve air quality and implement the Clean Air Act since 2015. Before serving as Air Quality Administrator, she worked at the Wyoming Attorney General's Office. In that office, she served as the Assistant Attorney General and represented the State's Division of Air Quality.

Administrator Vehr has also had broad experience in the private sector where she handled a wide variety of civil and environmental matters. Her wealth of experience with the Clean Air Act and her deep familiarity of Wyoming have served the State very well, for which we are very grateful.

Due to our unique location, geography and natural resources, Wyoming needs flexibility to implement the Clean Air Act. I look forward to hearing your testimony today and listening as you explain the challenges faced by the State of Wyoming in implementing the Clean Air Act and how the EPA can

better partner with States, specifically with the State of Wyoming, to solve these challenges.

Welcome. Thank you for being here and thank you for your willingness to testify.

Thank you, Madam Chairman.

Senator Capito. Thank you.

Now, I would like to recognize our Ranking Member, Senator Carper, if he would like to make an introduction.

Senator Carper. I would. Thank you, Madam Chair.

This is like Welcome Back Kotter, but welcome back, Shawn, to the Environment and Public Works Committee. We are happy you could join us.

Shawn and I spent some time trying to get here this morning on a train that was not really cooperative. Thank you for sticking with it and making it down here.

Shawn, did you ever work for Joe Biden?

Mr. Garvin. I did.

Senator Carper. How long?

Mr. Garvin. Two years.

Senator Carper. Two years. Would you say they were the happiest two years of your life?

Mr. Garvin. I think the 20 years I have been married to my wife.

Senator Carper. That's right. You mean the mother of your

son, Dillon, right?

Mr. Garvin. Yes.

Senator Carper. Is he in high school or college?

Mr. Garvin. High school.

Senator Carper. Going to college soon?

Mr. Garvin. Soon.

Senator Carper. So you worked for Joe Biden and kept him out of trouble for at least two years and for your efforts, you ended up as EPA Administrator for Region III for eight years.

After that, you ended up as a Secretary to the Department of Natural Resources and Environmental Control. Is there anyone in the room who also previously held that position? Who would that be? Christophe Tulou was the Secretary for my eight years as Governor.

We have known Shawn for a long time, admire him and have great affection for him and his family. We are happy you are with us today. Thank you for your continued service not just to the people of Delaware but to the people of our Country. Give your family our best.

Thank you for joining us.

Senator Capito. Thank you, Senator Carper.

I will introduce the rest of the witness panel and then we will begin.

In addition to Ms. Vehr and Mr. Garvin, we have Mr. Sean

Alteri who serves as the Director of the Division for Air Quality, Kentucky Energy and Environment Cabinet, Department for Environmental Protection. That is a long title.

Mr. Alteri has previously served as the President of the Association of Air Pollution Control Agencies and continues to play a leadership role in that organization.

Welcome.

We also have Mr. Toby Baker who is a Commissioner of the Texas Commission on Environmental Quality, first nominated by then Governor Rick Perry, in 2012.

Welcome.

We also have Mr. Matthew Rodriguez who serves as California's Secretary for Environmental Protection.

I want to thank all of the witnesses for being here. I will now recognize our witnesses for their opening statements. As a reminder, your full written testimony has been submitted for the hearing record.

Ms. Vehr, I would recognize you for five minutes.

Senator Carper. Madam Chairman, may I ask unanimous consent that my statement for today be inserted at an appropriate place in the hearing record.

Thank you so much.

Senator Capito. Without objection.

Senator Carper. Thank you so much.

[The prepared statement of Senator Carper follows:]

STATEMENT OF NANCY VEHR, ADMINISTRATOR, DIVISION OF AIR QUALITY,  
WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY

Ms. Vehr. Good morning Chairman Capito, Ranking Member Whitehouse, and members of the subcommittee.

I have the honor and pleasure of serving the great State of Wyoming as the Administrator for the Air Quality Division. Our department is an active member of the Environmental Council of States, ECOS, with several of the other presenters also serving.

Our Division is a member of the Association of Air Pollution Control Agencies where I serve as Vice-President and the Western States Air Resource Council, WESTAR, where I also serve as Vice-President. While my testimony may reference these organizations, I am not here to testify on behalf on their behalf.

In order to put my remarks in context, I would like to share a few facts about Wyoming to help you get to know who we are. Wyoming has been blessed with amazing and abundant natural resources. We are home to Yellowstone and Grand Teton Nation Parks and other special and scenic places that some of you may have visited.

Our abundant mineral resources provide the Nation, our State and our citizens with revenue and jobs. Our leading industries are energy, tourism and agriculture. We are the ninth largest State, roughly 93 times the size of Rhode Island.

Our largest county is roughly four times as large as Delaware. The Federal Government owns and manages about half the land in Wyoming.

We are also the least populous State, not quite 600,000 of us, in small, rural communities or in the large expanses in between. Only nine communities in Wyoming have more than 10,000 people each.

Wyoming wants and is working towards improved relationships and interactions with the EPA. It is Wyoming's experience that EPA shares this desire and is doing the same. Why are improvements to cooperative federalism so important? It is because we want better outcomes and air quality improvements.

My testimony highlights some of the progress made in the recalibration of State and federal roles which leads to more effective air quality environmental management at lower cost. My written testimony highlights some of these examples. My remarks today touch on one, regional haze.

With respect to cooperative federalism, EPA sets the deadlines and standards. States develop plans with implementation strategies to meet those deadlines and standards. When that process works, the result is improved air quality at lower cost.

Wyoming treasures her magnificent resources and vistas. In the 1977 Clean Air Act amendments, Congress established a goal

to restore visibility in national parks and wilderness areas to natural conditions.

Some 20 years later, EPA adopted the Regional Haze Rule. The rule mandates that States submit plans to reduce regional haze emissions. However, right in the midst of the regional haze plan submittal and approval timeframes, the cooperative federalism process failed.

Instead of approving innovative State plans to improve air quality, EPA oftentimes failed to act or imposed a one-size-fits-all federal plan on a State. Wyoming is one of those States in which EPA imposed a regional haze federal plan that came with a much higher price tag and no added visibility benefit as compared to the State's plan.

The work involved to develop and submit a State plan is time consuming and costly. For regional haze, the process in this first round took more than a decade and cost the State hundreds of thousands of dollars on the technical work alone.

Wyoming's plan achieved significant emission reductions, including almost 10,000 tons of nitrogen oxides by installing \$100 million worth of pollution controls. Wyoming's plan demonstrated that Wyoming would be on track to meet its visibility improvement progress goals.

Instead of approving Wyoming's plan, EPA imposed its own federal plan. EPA's plan had a price tag of \$600 million but

did not meaningfully improve visibility. These issues are now tied up in litigation.

The challenges of the second round of regional haze plans are due in a few years. Federal and State collaboration is underway in that process. Wyoming remains hopeful that those collaborative efforts will continue and be fully implemented.

If so, the result will be continued improvement and progress towards meeting the Clean Air Act visibility goals at a cost and resource savings to Wyoming's citizens.

Thank you to the committee for inviting Wyoming and listening to the department's perspective on cooperative federalism under the Clean Air Act.

Thank you.

[The prepared statement of Ms. Vehr follows:]

Senator Capito. Thank you.

Mr. Alteri.

STATEMENT OF SEAN ALTERI, DIRECTOR, DIVISION OF AIR QUALITY,  
KENTUCKY DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Mr. Alteri. Good morning, Chair Capito, Ranking Member Whitehouse, and members of the subcommittee.

My name is Sean Alteri and I currently serve as the Director of the Kentucky Division for Air Quality. I am honored to testify today and thank you for this opportunity to share a State's perspective related to cooperative federalism under the Clean Air Act.

In addition to my work with the Kentucky Division for Air Quality, I also serve as the Past President for the Association of Air Pollution Control Agencies. Our association is a national, nonpartisan, consensus-driven organization focused on improving air quality. The Association represents more than 45 State and local air agencies.

As Senator Inhofe remarked during a 2016 hearing, "Cooperative federalism is a core principle of environmental statutes, including the Clean Air Act, where EPA and the States work together to meet environmental goals."

Obviously, mutual respect is essential and necessary to forge a strong working relationship between EPA and State regulators. Working together, cooperatively, will allow all of us to achieve our environmental goals and objectives.

Specific to the Clean Air Act, cooperative federalism is

more than a catch phrase. Once EPA establishes a standard or an applicable requirement under Title I of the Act, the States are primarily responsible for the implementation and enforcement of those standards and requirements.

These standards include national ambient air quality standards, standards of performance, national emission standards for hazardous air pollutants, and waste incineration rules. To ensure that States are provided with the ability to carry out their obligations under the Clean Air Act and effectively administer its delegated authorities, EPA must establish nationally uniform emission standards based on sound science.

Additionally, EPA must promulgate reasonable regulations and fully consider implementation requirements of State, tribal, and local air pollution control agencies. Importantly, EPA must allocate stable and adequate resources and funds to State, tribal, and local air pollution control agencies.

Also, EPA must provide timely implementation guidance and technical support. Finally, EPA must meet all of its non-discretionary statutory duties by the prescribed deadlines. EPA's Strategic Plan for fiscal years 2018-2022 underscores each of these necessities.

In its strategic plan, EPA establishes a goal of cooperative federalism and sets forth its objectives to "enhance shared accountability" and "to increase transparency and public

participation.” EPA’s goal and objectives are consistent with those of State, tribal, and local air pollution control agencies.

In Kentucky, we take our responsibilities seriously and work diligently to fulfill our obligations under the Clean Air Act. We are proud of the significant improvement in air quality, and we understand that there is more work to conduct.

In the spirit of cooperative federalism, I would like to provide a status report on the air quality in Kentucky and detail activities conducted by our Cabinet to fulfill our obligations.

Air quality in Kentucky is improving dramatically. In the last 10 years, emissions of sulfur dioxides from our electric generating units decreased by more than 83 percent and emissions of nitrogen oxides decreased by more than 70 percent. Our robust ambient air monitoring network measures these positive results.

Currently, all monitors in the Commonwealth, except for one ozone monitor in Louisville, measure compliance with all of the national ambient air quality standards including the 2015 ozone standard.

These reductions and our success in air quality improvement are achieved through significant investments to install and upgrade air pollution controls. In the last 10 years, our

utilities invested more than \$8 billion dollars for air pollution controls. These expenditures are shared by all of the ratepayers in the Commonwealth.

Despite these efforts, EPA, during the last Administration, disapproved several State implementation plan revisions and issued federal implementation plans as a result. EPA's negative actions to disapprove or issue a federal implementation plan resulted from sue and settle decisions.

In closing, the Commonwealth of Kentucky is meeting its statutory obligations under the Clean Air Act and we are good neighbors by reducing our emissions and providing the rest of the Country with all the manufactured goods and products necessary to improve the quality of life for all.

To accommodate cooperative federalism and strong working relationships, we request that EPA apply a State implementation approach rather than aggressive federal overreach.

Again, thank you for the opportunity to testify today. I look forward to any questions or comments you may have regarding my testimony.

[The prepared statement of Mr. Alteri follows:]

Senator Capito. Thank you.

Commissioner Baker.

STATEMENT OF TOBY BAKER, COMMISSIONER, TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Mr. Baker. Thank you, Chairman Capito, Ranking Member Whitehouse, and members of the Environment and Public Works Subcommittee on Clean Air and Nuclear Safety.

For the record, my name is Toby Baker. I am a commissioner of the Texas Commission on Environmental Quality, otherwise known as the TCEQ.

The Texas Commission on Environmental Quality is the third largest environmental regulatory agency in the United States behind the EPA and California if you count their air control district model as one agency.

We have close to 3,000 employees across 16 regional offices, with our largest regional office being located in Houston as you may have guessed. By authority delegated to our agency, we regulate water quality, air quality, and waste in Texas.

I'd like to first highlight a few facts about Texas that I believe were made possible through the tradition of cooperative federalism, which, as you know, was built into the federal Clean Air Act and a number of other federal regulatory statutes.

Starting with amendments to the Clean Air Act in the early 1990s, Texas, one of the largest coastal States, turned a corner in environmental regulation and has become one of the leading

States in environmental success relative to our environmental challenges.

We currently produce one-third of the Nation's crude oil. Thirty percent of all refining capacity is located within our borders and a quarter of all U.S. natural gas production comes from Texas.

Balancing this, we also are the largest wind producing State in the U.S. with over 20,000 megawatts of capacity. Solar energy production is ramping up and, if you consider the projects we have in queue, we should have close to 3,500 megawatts of utility scale solar constructed or being built by 2019. To sum up, we produce and consume more energy than any other State.

In addition, the population of Texas is rapidly increasing. Since 2000, it is estimated that our population has grown by over 8 million. It is no secret that Texas is hot and these 8 million newcomers to the State have no doubt discovered the benefits of air conditioning which requires a significant amount of power.

It is also no secret that Texans like their cars and 8 million new Texans, moving primarily to already heavily populated areas, add a number of new vehicles to our transportation system. One could assume an increase in population, coupled with our robust manufacturing sector, would

lead to increased emissions, but in reality the opposite has occurred.

Since the late 1990s, we have seen a dramatic drop in both NOx emissions and ozone emissions. While we have occasional bouts with other criteria pollutants, ozone is our most pressing.

Since 2000, we have been one of the top States in reducing ozone emissions. In fact, in the latest ranking of dirtiest cities by the American Lung Association, Texas does not have a city in the top 10 while having three of the top ten largest cities in the United States.

Given the fact that the Houston area is essentially the kitchen for a good portion of the U.S. and that it has prime ozone making weather, frankly, it is astounding. Our emissions in our major metropolitan areas are currently driven more by mobile sources than any point source.

CO2 is worth mentioning as well. While Texas produces more CO2 than any other State, the per capita production, according to EIA, puts us at No. 14 when ranking the States. If we are objective about it, I would argue that we are a model for efficiency.

What has led to our success? I would say a tradition of cooperative federalism that has allowed Texas to tailor its own unique solutions to our own unique problems; a market that has

led to maximizing efficiency in the refining and power sectors; cleaner burning vehicles; and finally, incentives.

I would like to address cooperative federalism more specifically. First and foremost, the benefits of cooperative federalism, done correctly, were on full display during our response to the worst natural disaster in recent memory for the State of Texas, Hurricane Harvey.

Before and after Harvey made landfall, both EPA Headquarters and Region 6 coordinated closely with the TCEQ and other State agencies to ensure all necessary fuel waiver requests were processed as expeditiously as possible.

As a result of this cooperation, requests were usually granted in a matter of hours compared to previous hurricanes, where such waivers would be processed over several days because the EPA took more of a wait and see approach.

Similarly, EPA staff rapidly processed TCEQ's request for No Action Assurance letters concerning vapor controls at gasoline terminals, tank tightness of transport trucks, and landing of floating roofs on gasoline storage tanks.

EPA's rapid response and close coordination with TCEQ in approving the fuel waivers and NAA letters helped ensure the flow of gasoline and diesel products throughout Texas and the United States.

To be fair, the previous Administration also worked well

with TCEQ in transitioning all of the greenhouse gas permitting under the Tailoring Rule from the EPA to Texas. Recognizing the ability of a particular State to handle the application load under a certain rule is yet another great example of how cooperative federalism should work in a national regulatory scheme.

I notice that I am running out of time so I will skip forward.

At the same time that we have cooperative federalism where it works sometimes it does not work. An example is the Clean Power Plan which would have imposed significant economic and electric reliability strains on the State of Texas to attain emission reduction benchmarks in a very short timeframe that the State has consistently maintained would be met anyway under existing market conditions.

Specifically, Texas is currently on pace to nearly hit the initial emissions reduction benchmark of the Clean Power Plan several years ahead of schedule, and all without the rule being in place.

Finally, I am pleased to see, under this Administration, a return to the historical norm of a SIP-oriented approach to Clean Air Act enforcement and implementation. By diverting from a "FIP first" approach, the EPA has enabled individual States to implement and enforce federal standards in a manner allowing for

greater flexibility and efficiency.

This, in turn, leads to both a greater diversity in problem-solving methods that are tailored to each State's natural environment, as well as more predictability and consistency in enforcement. I have examples of that but I will leave those for later.

That concludes my testimony. Thank you for having me here today.

[The prepared statement of Mr. Baker follows:]

Senator Capito. Thank you.

Mr. Rodriguez.

STATEMENT OF MATTHEW RODRIGUEZ, CALIFORNIA SECRETARY FOR  
ENVIRONMENTAL PROTECTION, CALIFORNIA ENVIRONMENTAL PROTECTION  
AGENCY

Mr. Rodriguez. Thank you, Chair Capito, Ranking Member Whitehouse, and other subcommittee members for inviting me to testify.

I am Matthew Rodriguez, Secretary of the California Environmental Protection Agency. I will describe how the federal-State partnership created in the Clean Air Act has provided an extraordinarily successful example of cooperative federalism.

Since the Clean Air Act was comprehensively amended in 1970, emissions of the Nation's most common air pollutants have fallen by an average of 70 percent, even as our economy grew by 246 percent. By 2020, the Act's economic benefits will total \$2 trillion.

The Act has spurred the use of clean technologies that drive business opportunity. New refinery equipment reduces waste and improves worker safety and also improves the health of people in nearby neighborhoods.

Idle-reduction and electric vehicle technologies for cars, trucks, and school buses have cut fuel costs, engine wear, and greenhouse gas and smog emission.

Cooperative federal and State efforts have built this

record of achievement. The Federal Government provides minimum standards and resources to States. States tailor solutions for their individual communities.

Unfortunately, today this relationship has been put in jeopardy. USEPA, through a series of recent hasty and ill conceived actions, is attempting to weaken landmark safeguards with the result that the States have been forced to spend resources to fill the gap. I will provide several examples and have provided more in my written remarks.

In adopting the Clean Air Act, Congress gave California the option to develop its own emission standards and have other States to adopt them as well because California has technical expertise and experience and could drive innovation.

Using this framework, 13 States, including California, automakers and the Federal Government operated a coordinated national program to set rigorous and fair standards for greenhouse gases and fuel economy for cars and trucks.

USEPA's findings last year show this collaboration has been very successful. It is estimated that we will save roughly 1.2 billion barrels of oil, cut greenhouse gas emissions by over half a billion metric tons and save the average consumer thousands of dollars over a vehicle's life. Moreover, these standards have helped U.S. automakers stay competitive in the global market.

It is deeply disappointing that the Administration recently announced its intention, without meaningfully consulting with its partner States, to weaken and potentially dismantle this program. The result is huge uncertainty for industry and huge risks for the public.

We are prepared to take action as necessary, including legal action, to protect this program and restore the balance to this cooperative relationship.

Similarly, the Clean Air Act gives USEPA the authority, indeed the responsibility, to fight global warming and control greenhouse gases. Using this authority, the agency developed a Clean Power Plan through a transparent process to set attainable greenhouse gas reduction targets by 2030.

The plan offers an array of State planning options to meet these targets. With a plan in place, States were working collectively on implementation strategies. The Trump Administration's proposal to repeal the Clean Power Plan threatens to curtail this progress and shirks its responsibility under the Act.

Many States, including California, are stepping in with their own programs to reduce greenhouse gas emissions. Without federal leadership, we lack a national vision to modernize our power sector and respond to climate change.

Federal-State cooperation is also at the core of our

national program to make sure our air meets basic standards to protect public health. Ordinarily, USEPA sets science-based maximum levels for air pollution. States then develop plans to maintain these thresholds.

These standards are critical because smog can trigger asthma attacks, worsen heart conditions and damage agricultural production.

The current EPA administration, however, has refused to designate areas in compliance or not in attainment with federal standards and, instead, announcing an extended delay before even starting this process.

When 15 States and the District of Columbia filed suit over this illegal step, USEPA withdrew this formal delay, but still did not do anything. We had to go to court again to require USEPA to do its job.

States rely on our federal partners to ensure that factories and power plants have strong pollution controls. However, just a few months ago, the USEPA revoked the once-in, always-in policy that ensures that major sources of toxic air pollution are all subject to strict controls. These toxic air pollutants include lead, mercury and arsenic, which can cause cancer and damage the nervous system.

Under the new policy, these pollution sources can drop out of the program and increase their emissions again. States again

will have to do their best to develop programs to clean and protect the air. It means diverting resources that could address other public health threats.

Achieving the goal of clean air is about protecting our communities. We achieve this goal most effectively in partnerships with the public, with industry and with the federal administration.

The key to success is a strong and vigorous EPA. This is why we appreciate Congress' resistance to proposed budget cuts to the agency and its core programs, including its grant programs. It is why we also appreciate the federal workers who have stayed with the program through this period of uncertainty.

This will not be enough if USEPA continues to walk away from its responsibilities. If they do, the States will do what they must to protect the health of our people, our economies and our environments.

We will use all our available tools to ensure that the USEPA is again there to work with us and not against us.

Thank you very much.

[The prepared statement of Mr. Rodriguez follows:]

Senator Capito. Thank you, Mr. Rodriguez.

Mr. Garvin.

STATEMENT OF SHAWN GARVIN, SECRETARY, DELAWARE DEPARTMENT OF  
NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Mr. Garvin. Chairman Capito, Ranking Member Whitehouse, Senator Carper, and members of the subcommittee, my name is Shawn Garvin. I serve as Delaware Secretary of the Department of Natural Resources and Environmental Control.

I would like to thank you for the opportunity to testify on Cooperative Federalism under the Clean Air Act: State Perspectives. In May of 2017, I had the opportunity to testify in front of this subcommittee on the importance and effectiveness of the Clean Air Act in protecting public health and welfare, preventing premature deaths, and protecting the environment.

I am pleased to be here today to once again address you on my State's perspective of the Clean Air Act and some of the serious challenges downwind States face in meeting attainment standards for air quality.

Ozone-forming pollutants are well controlled in Delaware due to the State proactively requiring cost effective controls on a wide range of sources, including power plants, refineries, manufacturing plants, on-road vehicles, consumer products, paints and coatings, gas stations, and open burning activities to name a few.

Despite these efforts, Delaware continues to be challenged

in ensuring healthy air to our citizens because we are a downwind State and subject to air pollution transport from facilities in other parts of the Country. In fact, over 90 percent of the pollution that contributes to ozone in Delaware is transported from out-of-State sources.

The answer to solving our ozone problem lies outside of our borders and we need the Federal Government to recognize the inequity that exists between upwind and downwind States.

EPA has maintained that cooperative federalism is key to maintaining clean air. I would agree that cooperative federalism is invaluable, when it works well, by empowering States to act under federal law and allowing communities to enjoy the benefits of State innovation.

Positive outcomes can occur when the Federal Government works alongside States to determine best methods to continue progress toward clean air, provides the resources that the States need to enforce their regulations, and steps in when a State fails to meet its obligations.

Progress in downwind States, such as Delaware, require that the Federal Government continue to provide the States with the tools and resources needed to enforce the Clean Air Act. Yet, there have been proposed massive cuts in the past two EPA budgets.

Progress also requires that the EPA maintain oversight and

step in to ensure that upwind States continue to comply with the good neighbor provision. However, the EPA seems to be pulling back and turning decisions over to the States.

We are also seeing the attempt to reduce regulations at the federal level, such as repeal and replace of the Clean Power Plan, weakening of fuel efficiency standards, revocation of the California waiver, and the rollback of the glider truck rule.

In addition, the EPA has also failed to act on Section 126 Petitions, which is one of the ways a State can address problems that lie outside of its borders and seek reductions in emissions contributing to its nonattainment.

All of these actions, or non-actions, will have serious consequences for downwind States such as Delaware. The inequity that Delaware faces is compounded by the fact that we are both a downwind and the lowest lying coastal State and, in fact, the lowest lying State.

We are disproportionately economically affected by both the healthcare cost borne by the State due to the health effects of poor air quality, and by industry locating elsewhere due to more lax controls and regulations in upwind locations.

As the lowest lying State, we will be further impacted by the pollution of inland States that are contributing to sea level rise and the increased frequency of storms and coastal erosion.

My concern with the way the EPA is approaching cooperative federalism under the Clean Air Act is they are only focused on providing flexibility to the decisions we make inside our States.

The problem is that air pollution knows no boundaries, and I have no authority to ensure other States are addressing pollution that impacts my citizens. I count on the EPA to use their authority to hold all of us accountable to the law, regulations, and science to ensure we are all being good neighbors.

Thank you for the opportunity to testify. I am happy to answer any of your questions.

[The prepared statement of Mr. Garvin follows:]

Senator Capito. Thank you all.

I will begin with my five minutes of questions.

Mr. Alteri, you recently served as the President of the Association of Air Pollution Control Agencies representing State clean air regulators from around the Country. In that capacity, you sent a letter to me and Ranking Member Whitehouse last year outlining the AAPCA's priorities for improving the Clean Air Act, to improve coordination between the EPA and State regulators.

Thank you for the letter and I would seek unanimous consent to submit that letter for the record. Without objection, we will do that.

[The referenced information follows:]

Senator Capito. A bit over a year into the Administration, what do you perceive has changed with regard to the EPA's coordination with the States and has it been more collaborative, in your opinion?

Mr. Alteri. We have always had a strong working relationship with the EPA but this Administration has been coming to States for that technical information as opposed to just imposing its will through the federal implementation plan. We have seen more technical, thorough discussion directly with our State.

Senator Capito. Ms. Vehr, would you have a comment on that? Have you seen a difference in the last year in working with the different Administration on the EPA's coordination between the federal and States?

Ms. Vehr. Yes, we have. Echoing Mr. Alteri, we had a prior working relationship with EPA but under this new Administration, we have found that working relationship has improved. EPA is listening to the States' concerns and is interested in developing flexible solutions that fit Wyoming's unique characteristics.

I would say anecdotally, in my State, with the previous Administration for eight years, we really asked the EPA to come to our State to have a listening session which we were never able to get.

The EPA did come several months ago and had a very vigorous listening session in Charleston, West Virginia, obviously mostly around coal. We had all sides of the argument heard in the public sector. It was very much welcomed.

Partly, I see cooperative federalism as the ability to listen. That is what you said as well.

Senator Capito. Commissioner Baker, you are from an energy State. You mentioned the Clean Power Plan which was mentioned in some of the other testimony and that without the Clean Power Plan, we are not going to move forward with the desired capturing of carbon and cleaning the environment.

Could you again comment on that and what Texas is doing? You said they are the biggest producer of carbon in the Country.

Mr. Baker. Inside the Clean Power Plan, there were glide paths laid out that States had to meet to comply with the plan itself. I believe our first year was early in the 2020s. We will be within five percent of that number by 2019. That is without any plan currently in place.

Senator Capito. To what do you attribute that?

Mr. Baker. Honestly, Chairman, a number of things. I think efficiency with our industrial sector but I also would say, honestly cheap natural gas has had a direct impact. We have had 12 coal-fired ETUs that will be retiring, have retired or are retiring soon.

The market itself, I think, is driving us to do what the Clean Power Plan set out to do and on top of that, massive wind saturation into our power supply.

Senator Capito. I would like to ask a simple question of everyone. Senator Whitehouse, in his opening statement, got me thinking about this. He mentioned that States would want to walk away from the core mission of less pollution.

Ms. Vehr, is that the desire, to walk away from the core mission of the Clean Air Act and a mission of less pollution, yes or no?

Ms. Vehr. Absolutely not.

Senator Capito. Mr. Alteri?

Mr. Alteri. No.

Senator Capito. Mr. Baker?

Mr. Baker. No.

Senator Capito. Mr. Rodriguez?

Mr. Rodriguez. No.

Senator Capito. Mr. Garvin?

Mr. Garvin. Being downwind, I hope not.

Senator Capito. I wondered if somebody was going to take more than just a yes or no. Thank you, Mr. Garvin, for having faith and adding a few extra words.

Mr. Alteri mentioned the sue and settle issue. Could you explain to me how that works in terms of the ground level ozone

provisions?

Mr. Alteri. I think they have outcomes that are not consistent with the Clean Air Act. Currently, our utilities are being forced to add additional controls at extreme cost whereas those areas that maintain the standard on the East Coast do not have to provide any additional controls.

I think it is a negative outcome for our State and really unnecessary.

Senator Capito. Does anyone else wish to comment on the sue and settle?

Mr. Baker. I would like to make one comment.

One of the more egregious sue and settle complaints I think we would have goes back to 2010 to 2011 which came out of a case over timing reviews for NSPS. Through that consent decree and that decision, EPA decided new source performance standards were now going to be applicable to all oil and gas wells whereas we have years and years and years of legal interpretation that said NSPS did not apply.

With that one decision, essentially overnight, we had to regulate hundreds of thousands of new sources. The problem with that is obviously the cost to do that, since we are a delegated State, falls on my agency and trying to figure out how to do that through a simple reinterpretation of the way the Clean Air Act had been interpreted since the amendments of the early

1990s.

Senator Capito. Thank you.

Senator Whitehouse.

Senator Whitehouse. Thank you, Madam Chair. Thank you again to all the witnesses for being here.

I would like to open my questioning by reading a quotation from Freddie Mac, the U.S. mortgage backer. This relates to harm to coastal housing and property markets: "The economic losses and social disruption may happen gradually but they are likely to be greater in total than those experienced in the housing crisis and Great Recession."

Those of us from coastal States take warnings like that from our federal mortgage providers pretty damned seriously, as I think you would expect we should. Could you tell me, Ms. Vehr, what is the relationship between carbon dioxide emissions and sea level rise, cause and effect?

Ms. Vehr. Cause and effect? I know there are changes occurring in our environment currently that people are studying. I am not an expert in that area so I would have to defer to the studies others are doing in that area.

Senator Whitehouse. Mr. Alteri, can you do any better than that?

Mr. Alteri. No. I am not certain of the direct relationship between the CO2 emissions and sea level rise.

Senator Whitehouse. You have a coast, Commissioner Baker. Maybe you can do better. What do you know about this?

Mr. Baker. In certain areas, I think there is a direct correlation.

Senator Whitehouse. What do you mean in certain areas?

Mr. Baker. For example, in Texas, the relative sea level rise that we are experiencing comes from man-made things like subsidence and man-made structures that extend into the Gulf of Mexico.

Senator Whitehouse. I guess my question is what is the role of carbon dioxide emissions in contributing to that sea level rise, if any? What is your understanding of that?

Mr. Baker. In Texas, I do not know what the science says specifically about that regarding our coast.

Senator Whitehouse. How about generally if not specifically? What is the science generally on the correlation between carbon dioxide emissions and sea level rise?

Mr. Baker. I think I answered that it is correlated.

Senator Whitehouse. Okay. That is a start.

Mr. Rodriguez, California is coastal.

Mr. Rodriguez. I will just say I work with scientists all the time. It is sometimes hard to get them to agree with certainty on anything. In this particular area, the overwhelming consensus is, and I have no doubt, there is a

direct correlation between the CO2 emissions and changes in the weather, including sea level rise.

Senator Whitehouse. Do you have coastal communities actually having to plan for that?

Mr. Rodriguez. Absolutely. We just agreed to a new set of guidelines for development along our coast just recently at our Ocean Protection Council. We are preparing for sea level rise. We are already seeing it along our coasts.

Senator Whitehouse. Mr. Garvin, you are like me. You are coastal and you are downwind. Your friend, Mr. Rodriguez, is downwind of China. We are downwind of the coal plants in West Virginia, Ohio, Pennsylvania, Kentucky, and so forth.

For a long time we have been on the receiving end of their pollution and do not much appreciate the high smoke stacks that have been built to make sure that pollution goes out of their States and lands on ours.

Take a stab at what sea level rise means for Delaware and whether it connects to the carbon emissions from these plants.

Mr. Garvin. I want to touch on two things. I completely agree with my colleague from California.

When we look at this issue in Delaware, our two largest economic generators are tourism and agriculture. When you talk about climate change, part of it is sea level rise issues and part of it is creating more frequency of storms, more severe

storms, higher droughts and more flooding across the board.

That has direct impact on our two largest economic engines in the State of Delaware. We are seeing those impacts particularly along our coast line now and have been.

Senator Whitehouse. What do coastal communities in Delaware have to start doing now, given the sea level rise that is anticipated as a result of climate change and carbon emissions?

Mr. Garvin. There are three things going on right now. One is we continue to work on renourishment of our coastline to try to protect our coastline as much as possible. Our local communities are looking at land use decisions, existing structures and how they need to raise and address any new construction.

Senator Whitehouse. Treatment plants, ports, harbors, all those need to be reconsidered?

Mr. Garvin. Our wastewater treatment plants and our power plants. In addition, as we speak, our Department of Transportation is raising Route 1, which connects our coastline along the Atlantic coast, by several inches to try not to address the big storms but just address the regular storms and the impacts we are having on transportation which also becomes a public safety issue for our communities along the coast.

Senator Whitehouse. Thank you, Chairman. My time has

expired. I appreciate that.

Senator Capito. Senator Markey.

Senator Markey. Thank you very much.

Mr. Rodriguez, welcome.

Scott Pruitt is now attacking the fuel economy standards which were reached in agreement with California and all the waiver States along with the EPA and NHTSA in 2010-2011.

That would reduce our imports of oil by 3.5 million barrels of oil a day, roughly equivalent right now to what we import from OPEC on a daily basis. It seems like a pretty important thing to do, to keep on the books.

It also is still the largest single reduction that any Country has ever put on the books to reduce greenhouse gases, that one decision. It is huge. I take a great deal of pride in it because I was the House author of that legislation in the same way Senator Feinstein and Senator Stevens were the Senate authors of that bill, the 2007 bill relied upon by DOT.

What do you think about Scott Pruitt's statement that the standards are too hard to meet, that it is just an unfair imposition on the auto industry? Do you agree with that?

Mr. Rodriguez. No. We did a very, very thorough technical assessment of the standards and the progress the auto industry has made in complying with those standards.

Back in 2016 and 2017, our Air Resources Board found there

was no reason to deviate from those standards, that progress was being made. In fact, our experience has been if you set the right targets, industry will find a way to get there. That seems to be the case here.

We see no reason to deviate from those standards agreed to previously with the federal administration.

Senator Markey. What do you think about General Motors, Toyota and the other companies now saying they cannot meet the standards? What would be your message to them?

Mr. Rodriguez. We will continue to work with them and talk with them about how we meet these standards. We are always interested in hearing from industry.

Frankly, they are not quite as dramatic as that. We hear that they are interested in talking about some tweaks to the system but I am not hearing anyone say they want to see a wholesale revision of the standards. As I said, I think we are making very good progress in meeting those standards.

Senator Markey. I appreciate what you are saying but the American Automotive Association speaks for someone. They are not out there just talking as though they have a view. That association is just Pinocchio to Gepetto; above them are the CEOs of the companies that want the changes. They do not make these decisions without that kind of instruction that is coming down to them.

The CEO of Ford Motor Company has made it quite clear that he does not agree with it but the others, not so much. From my perspective, I think that is at the core of the problem we have right now.

What would this represent as an attack on the clean air standards of California and the other 13 States who would see their standards compromised?

Mr. Rodriguez. Transportation, obviously, is a very, very significant part of the air pollution puzzle. We have made tremendous progress through the years but we need to continue to clean up the air.

Frankly, our goal is to move to electric and fuel cell vehicles and zero emission vehicles because that is the only way we can meet our greenhouse gas emission standards. We are fully committed to continuing to work to enforce these standards and continuing to work with the auto industry to bring about this change in technology that will change us over to zero emission vehicles.

Senator Markey. Scott Pruitt talks about cooperative federalism as the way in which he wants to operate. In your opinion, would this be a direct attack on cooperative federalism given the agreement that was reached six years ago to increase the standards?

Mr. Rodriguez. We look forward to a dialog with EPA. We

really have not had it yet on the technology. We had worked with the previous EPA administration on the technology and agreed with them and their assessment of the standards and success in meeting those standards.

In answer to your question, no, we have not seen that sort of cooperative federalism exhibited by this administration.

Senator Markey. You are not saying you have not yet had a conversation with them? Is that what you are saying?

Mr. Rodriguez. There have been some general conversations but certainly nothing on the technical level that you need to do if you are going to look at standards.

Senator Markey. Do you think that makes sense, that Scott Pruitt says he is going to recommend revocation of those rules without even having had conversations with the other party to the negotiation to determine whether or not the technical standards can be met? Do you think that is cooperative federalism?

Mr. Rodriguez. No.

Senator Markey. No. Okay. I thank you.

Thank you, Madam Chair.

Senator Capito. Senator Barrasso.

Senator Barrasso. Thank you very much, Madam Chair.

Ms. Vehr, I would like to ask you a couple of things.

Your testimony demonstrates the importance of cooperative

federalism because many of the issues we face in Wyoming are unique to the State of Wyoming, given our size, location, high elevation, topography, and economy, which are all quite unique.

What can the EPA do to work with Wyoming to address these unique characteristics and how they affect issues such as background ozone, exceptional events and things like wildfires?

Ms. Vehr. First, start by listening to what Wyoming has to say. Second would be to timely act when Wyoming makes a request. Third would be to provide some of the technical tools. States like Wyoming consume a lot of resources to develop modeling and the like.

Senator Barrasso. We talk about and look at the fact we have been so successful in balancing the economic benefits from using our natural resources for energy production in Wyoming while ensuring views in our national parks are not impacted by issues related to air pollution.

This is why striking that proper balance, you discuss, between State and federal decision-making in the implementation of say the Regional Haze Program is critical. Is EPA addressing your concerns about the role federal land managers play in State plans as it relates to regional haze?

Ms. Vehr. I think they are starting to. It is critically important that States work with EPA but it is also equally critically important that all the federal land managers in EPA

have a working relationship.

Wyoming does participate in these discussions so that we have other federal land managers, EPA and the State at the table so all of our voices are heard and we can achieve improved air quality.

Senator Barrasso. Director Alteri, one of the greatest concerns about the Obama Administration's EPA, for me at least, was the agency's use of a tactic known as sue and settle. This allowed the EPA to make decisions that had a major impact on States without including States in the decision-making process at all.

How will the recent directive issued by Administrator Pruitt on sue and settle be helpful to States?

Mr. Alteri. As it relates to our State implementation plan, the directive from Administrator Pruitt mandates that States have a voice at the table and a seat at the table. I think that will give us an opportunity to explain the technical limitations or technical abilities to achieve these standards.

Senator Barrasso. Ms. Vehr, the prior Administration issued some rules that imposed, I thought, really burdensome requirements on States because the EPA charged States, like ours, affected air quality in other States.

Can you talk a bit about your perspectives on these air transport issues? Should we also think about international

effects on our air quality?

Ms. Vehr. Definitely, the international affects. This is still an evolving area of science, both on ozone and visibility. The modeling Wyoming and other western States did for the first round of regional haze showed visibility in the west was impacted by international transport of pollutants.

The ozone modeling EPA conducted for the Cross State Air Pollution Rule Update looked at pollution. As we dove into that modeling, we realized there is still an area that needs to be examined with international transport. It does affect.

Last week at our AAPCA meeting, we heard a speaker who talked about reduction in international pollution which may help solve the ozone issues other States are experiencing. Yes, international transport is important.

Senator Barrasso. Director Alteri, I would ask if you would like to weigh in a bit or if there is anything you would like to add to what Administrator Vehr had to say? Can you talk a bit about how the State of Kentucky has been affected by some of these EPA regulations about emissions from one State to another?

Mr. Alteri. Ms. Vehr mentioned models. The models are limited. Former Assistant Administrator McCabe mentioned that EPA has not fully evaluated all of the other stationary sources beyond EGUs. Those limitations have imposed greater reductions

for us than they would in the maintenance areas in Maryland and other places.

Also, there was a statement as well that if emissions from Kentucky were reduced in total, it still would not affect and bring the areas in the Northeast into compliance.

Senator Barrasso. To zero?

Mr. Alteri. To zero.

Senator Barrasso. If emissions went to zero, it still would not help the others?

Mr. Alteri. It still would not bring their areas into compliance.

Senator Barrasso. Thank you.

Thank you, Madam Chairman. That was very interesting.

Senator Capito. Thank you.

Senator Carper.

Senator Carper. Mr. Alteri, my mother lived in Kentucky the last two or three years of her life in a place called Ashland. I had a chance to go there a lot. My sister lives in Winchester. I had a chance to go see her and her family. I have a good deal of love going to Kentucky, a beautiful State.

Mr. Alteri. Thank you, Senator.

Senator Carper. I applaud the reduction in emissions that you talked about in your testimony.

When Frank Garvin, our Secretary, spoke, I think he

mentioned that something like 90 percent. Frank, repeat what you said, 90 percent?

Mr. Garvin. Over 90 percent of ozone comes from outside our borders.

Senator Carper. That is not good. That is not good.

Earlier in my life, I was privileged to serve as Governor of Delaware. I remember having a conversation with folks from Maryland, folks who made their living harvesting creatures that live in the Chesapeake Bay. They had the big dead spots in the Chesapeake Bay and the sea grass stopped growing and their ability to make a living was diminished.

They said to us, we needed to do something about it. We said, why? They said because the Nanticoke River that flows through Delaware into Maryland and into the Chesapeake Bay was carrying a lot of nutrients from when we clean out chicken and poultry houses in Delaware, our farmers were, in some cases, just back stacking it up on their farm fields. In other cases, they spread it across their farm fields for the value of the nitrogen and phosphorous.

We were doing it without a lot of thought. It would rain and the nutrients would wash into ditches, creeks, rivers, and the Chesapeake and degrade the quality of their water. It was not just our water, but Pennsylvania, Virginia and other places.

The folks from Maryland said, how would you like to be

making your living by harvesting God's creatures who live in the Chesapeake Bay, how would you like to be trying to make your living and your neighbors were all polluting the place where you are trying to make a living?

We said, you know, you have a pretty good point there. I think they even pointed out that was not really consistent with the Golden Rule, treat other people the way we want to be treated.

We put together a farmer-led initiative called the Nutrient Management Commission that ultimately worked with environmental groups as well as with the Department of Natural Resources, including Christophe Tulou's successor, Nick DiPasquale, and came up with a way to dramatically reduce those kinds of runoff and emissions and the damage we were doing to our neighbors.

We have been on both sides of this equation. We have been the neighbor who degraded the water quality of our neighbor, Maryland. We are the neighbor who receives emissions from my native West Virginia, from western Pennsylvania, from Kentucky where my sister now lives, from Indiana, Tennessee and Virginia, all kinds of States.

My colleagues are sick of hearing me say this but when I was Governor of Delaware, the kind of emissions our Secretary talked about, we could have shut down our State, cut off the road and basically shut down the economy. We still have been

out of compliance. That is just not fair.

There is a need here for a federal role. Other States, upwind States, those of us who live at the end of America's tailpipe whether it is Delaware, Rhode Island, New Jersey, Maryland, all of us, this ain't right.

There is a need for the Federal Government, when States will not do enough to help us out, to make sure that you do more. I am going to ask Secretary Garvin to comment on that, if you would, because you have to live with this.

Mr. Garvin. I appreciate that. If you look at the State of Delaware, the two biggest things we are talking about here is our transport that we are receiving which is over 90 percent and the second piece is transportation. Those are really the two biggest pieces that we have when looking at emissions. Both of those we really need cooperation and partnership with both our fellow States, as well as leadership from our Federal Government.

We have been the ones who have taken advantage of all the work that California has done because we could never have done it on our own. When you look at the Mid-Atlantic and the Northeast and the amount of vehicle traffic we have, for us to address air issues, we are going to need to continue to work on the transportation side.

We are continuing to look inside the State on how we build

a much better electric infrastructure for vehicles, but we are really going to rely on cooperative federalism and cooperation with our fellow States on both the transport issue and the transportation issue.

Senator Carper. Thank you.

Madam Chair, if we have a chance to ask another question, I would like to come back and maybe use two minutes to ask one last question.

Senator Capito. Yes. I will go to Senator Inhofe. I did not know what your time constraints might be.

Senator Inhofe. I would like to hear his question.

Senator Capito. Okay. Go ahead.

Senator Carper. Over a number of years, we have made real progress going back to when I think Jerry Ford was President and more recently since 2007, we have made real progress in reducing emissions, to which Secretary Garvin alluded, to combat cars, trucks and vans.

One of the things Senator Inhofe and I worked on together was to reduce diesel emissions. That was actually pioneered by George Voinovich, a former colleague.

We have the opportunity to continue to make progress and do so with a win-win situation where we provide the automakers some flexibility in the near term, maybe 2021-2025, in return for making clear what the out year targets could or should be

particularly for light trucks, SUVs and so forth.

The auto industry needs certainty. They do not want to have to build one model for California and a different model car, the same vehicle for 49 other States, or even 40 other States.

I think there is a real opportunity here to make clear the endangerment finding and the Clean Air Act are compatible with one another, that there is a way to give the auto industry some flexibility in the near term, 2021-2025, in return for some greater rigor in standards say after 2030 in a way that is respectful of California's leadership role in this and for a the rest of us.

Is that a pipe dream? Is that reality? Can you give me a reality check on that idea?

Mr. Rodriguez. As I said, we believe the standards, we previously agreed to, are attainable but certainly, we are willing to sit down with the auto industry, talk about the technology, and look out to 2030. We want to work towards a solution that will keep us moving forward.

No, it is not a pipe dream. We will talk to the industry and work with others to come up with a solution.

Senator Carper. I would just say to my colleagues, one of the things I try to do every year in January is go to the Detroit Auto Show. You all have probably been there as well. I

have been doing it for years.

I met with representatives from ten different auto companies, both foreign and domestic, all who basically said give us some additional flexibility in the near term and terms for greater certainty but greater rigor in the out years out to 2030. I really do think there is a win-win here. I hope we will take advantage of it.

Senator Capito. Thank you.

Senator Inhofe.

Senator Inhofe. Thank you, Madam Chair. Thank you and the Ranking Member for having this hearing today.

I just got here so I do not know what has been asked. I have been chairing the Senate Armed Services Committee. We sometimes have that problem.

Our States should be seen as a partner. I think that is what is going on that is different now than it was during the last Administration and not looking at them as opposition. The current EPA Administrator, Scott Pruitt, has made that his mission and is delving on that promise.

In the first year as Administrator, he has met with 34 governors from both parties, visited 30 States and U.S. territories. Under his leadership, EPA has acted on 322 State implementation plans, SIPs, and has averaged turning one federal FIP into a SIP each month.

In comparison, the Obama Administration imposed more than 50 FIPs on our State partners.

I understand some people think what our Administrator has been doing is a step backwards but they are the ones who think somehow the Federal Government or other States should be dictating what we do in our State. I know that is not the feeling of our Administrator now.

I read the testimony today and I would say that many States are seeing positive results from this Administration.

I have a question for Mr. Alteri. Senator Barrasso already brought up the sue and settle problems we have had. I had the privilege of chairing this committee for a number of years. I watched that happen.

In the case of Oklahoma, we were a victim of the sue and settle that was taking place. We were sued in northern California courts and forced to comply with a settlement that we were not a party to regarding the Regional Haze Plan, a decision Congress specifically delegated to the States.

The federal plan will cost ratepayers an estimated \$282 million and Oklahoma Gas and Electric said the EPA's rule would "trigger the largest customer rate increase in OG&E's history while the resulting impact on regional haze would be practically imperceptible."

Mr. Alteri, does this sound like a reasonable expectation

from the result of a court case like this? Are you familiar with this? Are there other comparable problems?

Mr. Alteri. I am. Specific to regional haze, all of the States are achieving their glide path or their status update. All of the States are achieving those.

I think when EPA issues federal implementation plans, it gives a negative connotation to the fact we are doing our job. The federal implementation plans kind of allude that States are not stepping up to the table and doing their job.

Senator Inhofe. But we are. For a number of years, this is the same thing you always get, those who are the more liberal individuals think that someone else can set an example in the case of the Federal Government, that somehow they know how to do things we do not know how to do.

It is kind of rewarding actually, as during the last Administration, when we had a partnership program take place with Fish and Wildlife, they found the States actually were doing a better job.

I have a question for Mr. Baker. One of the misconceptions following Hurricane Harvey was that the EPA was missing in action in response to the environmental concerns that Texas was potentially facing.

Your testimony suggested this was not the case at all. Can you elaborate on how the EPA was a partner with the State in

facing the effects of this natural disaster?

Mr. Baker. They were with us every step of the way as Hurricane Harvey was coming and in the response. They were actually part of a group we call NDOW, the Natural Disaster Operational Workgroup made up of our agency, the EPA and the Coast Guard.

We had table-topped hurricanes coming in multiple times. At the staff level, they were already prepared. The big difference here as opposed to previous administrations was after the hurricane hit and we needed fuel waivers, they acted almost immediately.

I went through Katrina, Ike, Frieda all in the government. This one, by far, was the one where they were the most reactive and moved with the most efficiency. We could not have done the things we did without them being at the table with us. They actually had people in our office with us and in the State Operations Center on a daily basis.

Senator Inhofe. In Texas, you know more about that, you have more of them. In Oklahoma, we have tornadoes, not hurricanes, but it is the same thing. We have experienced it and know how to react to them. I think that needs to be talked about.

Lastly, Ms. Vehr, in your testimony you highlight the fact that cooperative federalism is not just implementing federal

decisions but being a part of the decision-making process itself. You mentioned the fact that Administrator Pruitt announced new policies for the EPA's Board of Scientific Counselors, including ensuring a diverse composition.

Why do you think it is important for these boards to be regionally diverse?

Ms. Vehr. So that all State voices can be heard and the unique circumstances in all States are brought to the table to be considered in decision-making so there can be flexibility and appropriate decision-making to lead to better and improved air quality at lower cost.

Senator Inhofe. Thank you very much.

Thank you, Madam Chair.

Senator Capito. Thank you, Senator.

I would like to recognize the Ranking Member who wanted to make a quick statement before we close out the hearing.

Senator Whitehouse. I just wanted to point out that one dimension of the role of the EPA has to do with assuring fairness between separate States. Both Senator Carper and I, as downwind States, have lived the world in which, from a State regulator's perspective, the solution, for instance, to air pollution was to build taller smokestacks so that the pollution went up higher into the atmosphere and was carried out of the polluting State and then landed on our State.

It is very hard to ask Ohio, Pennsylvania or Kentucky to crack down on pollution that is not landing in Ohio, Pennsylvania or Kentucky. It is a tough expectation to have for them politically.

We could regulate until we are blue in the face in Rhode Island but it does not help if what is coming in is coming in and is deliberately being set up to come in on us from out of State.

It is in that circumstance that the EPA plays an essential and vital role. That role cannot be subject to control by the polluting State because there is another State involved that is the downwind recipient of all of this.

It is that particular situation, I think, where we have to be very careful about how cooperative this federalism gets if you are not dealing with the polluted State as well. I just wanted to be clear on that point.

Senator Inhofe. Madam Chair, may I make a response?

Senator Capito. Sure.

Senator Inhofe. I agree with you in this case.

Senator Whitehouse. It is true with the water as well, as you know.

Senator Inhofe. However, it is not the case as we just talked with Commissioner Baker. In that case, it is quite clear they had a lot more knowledge handling their own problems than

the Federal Government did.

Obviously, the case you cite is one where there has to be that interference. We understand that.

Senator Whitehouse. We end on a happy note.

Senator Capito. Yes. I would just like to reinforce, since we are in the land of final comments, at least from my State, the welcome, open door policy at the EPA, the willingness to talk, the willingness to understand the implications at every State, whether it is a downwind State or a heavy energy producing State.

I think if the part of cooperative federalism is going to work, cooperative has got to work. I am encouraged by what we see.

Senator Carper. Madam Chair?

Senator Capito. In the land of final comments, you can say one last thing.

Senator Carper. Thank you.

First of all, thank you for getting me in and out so I could be in the Census hearing as well.

I want to say again Senator Whitehouse really nailed it for those of us who are at the end of America's tailpipe. I would just ask you to put yourselves in our shoes and we will try to do the same with respect to other States.

I would ask unanimous consent to submit for the record the

four petitions from the State of Delaware to the EPA that ask the agency to require upwind power plants to install or consistently operate already installed pollution controls.

These actions need to occur to help downwind States like Delaware address nonattainment concerns for ozone.

I have a second UC request, if I could, dealing with glider trucks. I would ask unanimous consent to submit for the record a letter that Senator Udall and I sent to EPA regarding concerns about a proposal that would allow some of the dirtiest, heavy duty diesel trucks called glider trucks to circumvent clean air cleanups.

They look like new trucks on the outside but they are equipped with old, high polluting diesel engines that can emit up to 450 times the particulate matter pollution and up to 43 times the nitrous oxide pollution of the model 2014 and 2015 trucks.

Those would be my two UC requests, Madam Chair.

Senator Capito. Without objection.

[The referenced information follows:]

Senator Carper. Thanks very much to the witnesses and Secretary Garvin for getting up early and putting up with a balky train schedule to be here with all of us. You were joined by at least one member of your staff over your left shoulder. She looks so familiar. Introduce her.

Mr. Garvin. I have my Chief of Staff, Kristin Barnekov-Short as well as my Acting Air Director, David Fees.

Senator Capito. Thank you.

If there are no more questions, I will thank the panel for today.

Members may submit follow-up written questions for the record by the close of business on Tuesday, April 24. For our witnesses, committee staff will forward any questions from committee members. Please respond to those written questions by close of business Tuesday, May 8.

Again, thank you so much.

This hearing is adjourned.

[Whereupon, at 11:28 a.m., the subcommittee was adjourned.]