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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

RICHARD M. RUSSELL, MAJORITY STAFF DIRECTOR
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August 1, 2019

The Honorable Andrew Wheeler
Administrator
U.S. Environmental Protection Agency
1301 Constitution Ave. NW
Washington, DC 20460

Dear Administrator Wheeler,

We write to request information about the Environmental Protection Agency's (EPA's) plan to implement President Trump's June 14, 2019, Executive Order (Order). The Order, entitled 'Evaluating and Improving the Utility of Federal Advisory Committees,'¹ instructs each agency to evaluate its current advisory committees and eliminate at least one-third of them by September 30, 2019. The Order also limits the creation of new advisory committees and expresses the President's intent to reduce the total number of government-wide non-statutory advisory committees to no more than 350.

Advisory committees are intended to be a resource for the federal government to obtain expert advice on a wide range of issues.² Of the twenty-two current EPA advisory committees, eleven were created by statute (including the Clean Air Scientific Advisory Committee, the Science Advisory Board and the Human Studies Review Board),³ or by presidential action (such as the Good Neighbor Environmental Board),⁴ and thus are ineligible for elimination according to the Order. An additional eleven advisory committees were created by the EPA (including the Children's Health Protection Advisory Committee and the Clean Air Act Advisory Committee)⁵ and are the committees that will have to be reduced by one-third to comply with the Order.

¹ <https://www.whitehouse.gov/presidential-actions/executive-order-evaluating-improving-utility-federal-advisory-committees/>

² <https://www.epa.gov/faca/about-federal-advisory-committee-act-faca-epa>

³ Additional EPA Advisory Committees created by statute include the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel, the Hazardous Waste Electronic Manifest System Advisory Board, the National Drinking Water Advisory Council, the National Environmental Education Advisory, and the Science Advisory Committee on Chemicals.

⁴ Additional EPA Advisory Committees created by the President include the National Advisory Committee to the United States Representatives to the North American Commission for Environmental Cooperation, and the Governmental Advisory Committee to the United States Representative to the North American Commission for Environmental Cooperation.

⁵ Additional EPA Advisory Committees created by the Agency include the Environmental Financial Advisory Board; The Environmental Laboratory Advisory Board; EPA Board of Scientific Counselors; Farm, Ranch, and rural Communities Advisory Committee; Great Lakes Advisory Board; Local Government Advisory Committee; National Advisory Council For Environmental Policy and Technology; National Environmental Justice Advisory Council; and the Pesticide Program Dialogue Committee.

Prior to the issuance of this Order, the EPA was already weakening advisory committees. A report from the Government Accountability Office released earlier this month found that EPA has not consistently followed its own internal processes when it comes to appointing advisory committee members.⁶ The report also raised concerns about the EPA's failure to ensure advisory committee appointees were in compliance with federal ethics rules, as well as its failure to conduct periodic reviews of its ethics program. Further, in 2018 EPA decided to dismiss or not renew the terms of qualified advisory committee scientists, appoint industry representatives to these committees, disband its Particulate Matter Review Panel and the Ozone Review Panel,⁷ and ban scientists receiving EPA grant funding from serving on advisory committees. With the Order's mandate to eliminate some of EPA's advisory committees entirely, we are concerned that such actions would jeopardize human health and the environment by further limiting the role of science in informing EPA policy.

So that we can understand how EPA plans to implement the Order, we ask that you provide us with responses to the following questions and requests for information no later than August 15, 2019, and that you continue to provide us with responsive materials on an ongoing basis as the agency completes its response to the Order):

1. Please identify how many existing non-statutory advisory committees the EPA will recommend eliminating in order to achieve the one-third reduction required by the Order.
2. Please identify which existing non-statutory advisory committees the EPA plans to eliminate and provide a list of names of EPA employees or appointees who helped, or will help, make the determination as to which non-statutory advisory committees will be eliminated as a result of the Order. Please also provide a copy of any documents (including emails, white papers, memoranda, emails or other materials) that describe the manner in which EPA will respond to the Order.
3. Section 2 (b) identifies certain criteria that would support the elimination of a committee under the Order. For each advisory committee EPA plans to eliminate, please provide any documents (including emails, white papers, memoranda, emails or other materials) regarding the committee dated before June 14, 2019 that may be relevant to the criteria stated in Section 2 (b) (i)-(iv) of the Order, including whether the stated objectives of the committee have been accomplished and/or whether the subject matter or work of the committee has become obsolete.
4. Section 3 (ii) of the Order instructs EPA to submit a 'detailed plan' for "each advisory committee required by statute" The plan must recommend either the continuation or termination of the committee, and include draft legislation for submission to Congress that would terminate

⁶ <https://www.gao.gov/assets/710/700171.pdf>

⁷ <https://www.carper.senate.gov/public/index.cfm/2018/11/carper-whitehouse-lead-senators-in-demanding-documents-on-epa-s-abrupt-dismissal-of-scientists-from-advisory-committees>

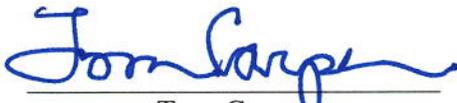
the statutory advisory committees that the agency has recommended for elimination. Please provide us with a copy of the 'detailed plan' prepared by EPA for each advisory committee created by statute, including any accompanying recommended legislation. Please also provide a list of names of EPA employees or appointees who prepared the 'detailed plan' for each statutorily mandated advisory committee referenced above. Finally, please provide a copy of all documents (including emails, white papers, memoranda, emails or other materials) related to the manner in which the EPA reached each decision to recommend the elimination of a statutory advisory committee.

5. Section 1 (c) of the Order allows EPA to apply for a waiver in order to maintain advisory committees otherwise subject to elimination under the Order. Please provide a list of any of EPA's current advisory committees for which the EPA has submitted, or intends to submit, a waiver under Sec. 1 (c) of the Order, as well as any supporting documents (including emails, white papers, memoranda, emails or other materials) related to that decision.

Thank you very much for your attention to this important matter. If you have any questions or concerns, please feel free to contact us or ask the appropriate member of your staff to contact Michal Freedhoff of the Environment and Public Works Committee staff at 202-224-8832 or Joe Gaeta of Senator Whitehouse's staff at 202-224-2921.

With best regards, we are

Sincerely yours,


Tom Carper
Ranking Member


Sheldon Whitehouse
United States Senator


Tammy Duckworth
United States Senator


Chris Van Hollen
United States Senator


Edward J. Markey
United States Senator


Benjamin L. Cardin
United States Senator

Handwritten signature of Jeffrey A. Merkley in blue ink.

Jeffrey A. Merkley
United States Senator

Handwritten signature of Kirsten Gillibrand in blue ink.

Kirsten Gillibrand
United States Senator