

TESTIMONY OF
MICHAEL S. REGAN
ADMINISTRATOR
U.S. ENVIRONMENTAL PROTECTION AGENCY

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U.S. HOUSE OF REPRESENTATIVES

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Good morning, Chairman Thompson, Ranking Member Scott, and Members of the Committee. Thank you for the opportunity to appear before you today to discuss EPA's engagement on agricultural and rural policy matters.

I joined the Agency two years ago, and I made it clear from the beginning that I have a strong desire to work closely with the farming and ranching community to identify practical, science-based policies that protect the environment and ensure a vibrant and productive agricultural system. During my tenure, I've visited a farm in Kansas and an ethanol facility in Iowa. I've held joint events with Secretary Vilsack in Alabama and North Carolina, and I've hosted agricultural leaders in my office at EPA.

Agricultural and rural communities across the Nation are very important to me - and to President Biden. I was raised in rural eastern North Carolina and am deeply familiar with how our agricultural producers work tirelessly to put food on our table. I also know that farmers and ranchers are tremendous conservationists and stewards of the land, in part because their livelihood depends upon sustaining natural resources from generation to generation.

Of course, the challenges facing our food and agriculture system are significant. Producers find themselves on the front lines of the climate crisis, facing increasing impacts from extreme weather events like severe storms, widespread flooding, prolonged drought, and more frequent wildfires. This volatility threatens to erode agricultural productivity even while the global population surges toward 10 billion people by mid-century.

I want you to know that our Agency is committed to supporting American farmers and ranchers to ensure they can produce an abundant and uninterrupted supply of food, feed, fuel, and fiber while also continuing to deliver on our mission of protecting human health and the environment. My testimony will highlight ways in which we are furthering these goals.

PESTICIDES

I'd like to begin with an update on pesticide policy. EPA's role, under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), is to evaluate the human health risks, and any environmental impacts from pesticide use and weigh them against the benefits of the pesticide use. We are also responsible for meeting obligations under the Endangered Species Act (ESA) to avoid jeopardizing federally listed species or adversely modifying designated critical habitat when we take certain actions under FIFRA. I'm committed to following the science and the law to make the best decisions concerning pesticide regulations.

As you are aware, multiple Administrations have struggled with balancing the scientific and legal/policy considerations that arise from both FIFRA and ESA obligations. On numerous

occasions over the past two decades, federal courts have ruled that EPA has been out of compliance with the ESA when registering pesticides, and we have faced an increasing number of cases against EPA for not completing the required effects determinations for federally listed species or consultation with the National Marine Fisheries Service or U.S. Fish and Wildlife Service as necessary.

This Administration has taken to heart Congress's charge within the 2018 Farm Bill by reinvigorating federal interagency coordination and the broader stakeholder engagement processes. Last year, we announced that the Agency will meet its ESA obligations before registering any pesticide product containing a new conventional active ingredient. We also published a comprehensive ESA-FIFRA workplan that seeks to forge a longer-term strategy, with full stakeholder participation and input, in an effort to protect listed species, reduce our legal vulnerabilities, and provide predictability to farmers.

EPA's Office of Pesticide Programs is funded through a combination of annual appropriations, as well as industry fees authorized by the Pesticide Registration Improvement Act (PRIA). Our Agency has received a record number of registration requests in recent years, and while we have completed a record number of actions, despite a shrinking workforce, we recognize the need to do more.

President Biden's FY 2024 Budget includes a much-needed funding increase that would help EPA accelerate its pesticide review process, bringing greater predictability to farmers and other pesticide users while strengthening protections for human health and the environment.

I also want to thank Congress for reauthorizing the Pesticide Registration Improvement Act (PRIA 5) in the FY 23 Omnibus Appropriations Bill in December. The legislation authorized EPA's Office of Pesticide Programs to collect increased industry user fees to fund staff and other resources and will enable greater efficiency through process and technology improvements.

RENEWABLE FUELS

Another issue of significant interest to the agriculture sector is biofuels. As you know, renewable fuels help diversify our Nation's energy supply, improving energy independence and security. Biofuels are also important to rural economies, providing good paying jobs and income to farming communities.

Getting the Renewable Fuels Standard (RFS) program back on track has been a key priority for me since arriving at EPA. Last year, we finalized Renewable Volume Obligations (RVO) that placed the program on a stable trajectory for growth in the program. In fact, the RVO for 2022 represents the largest volumes ever finalized by this Agency.

We are now at an important juncture in the RFS program. In December, EPA proposed growth-oriented targets for the next three years: 2023, 2024 and 2025. Because the Energy Independence and Security Act of 2007 (EISA) does not include specific volumes after 2022 for any fuels, this is the first time that EPA is setting all these biofuel targets without using those outlined in statute. We received a significant amount of stakeholder input during the public comment period, and we are currently considering this input, along with robust engagement with

the U.S. Department of Agriculture (USDA) and other interagency partners, as part of the process toward finalizing the rule in the coming months.

WATERS OF THE UNITED STATES

In December, EPA and the Army announced a definition of “Waters of the United States” (WOTUS) that is founded on the pre-2015 definition and updated to reflect consideration of Supreme Court decisions, the science, and the agencies’ technical expertise.

For several decades after the passage of the Clean Water Act, agencies followed a consistent, predictable definition of waters of the United States. In recent years, however, the only constant with WOTUS has been change. The definition of WOTUS has changed from administration to administration and from court decision to court decision. This has resulted in confusion, inconsistency, and uncertainty.

EPA and the Army have worked to provide a durable definition of WOTUS that is clear, consistent, and reasonable while protecting wetlands and facilitating agricultural production. We recognize that America’s farmers and ranchers are stewards of the land and have a tremendous stake in protecting water quality. That’s why it was so important for us to get this rule right.

The final rule codifies several exclusions from the definition of “waters of the United States” in the regulatory text. This delivers clarity and certainty to a broad range of stakeholders, including farmers, ranchers, and landowners. These exclusions include prior converted cropland, certain ditches, many swales and erosional features, certain artificially irrigated areas, certain

artificial lakes and ponds, certain waterfilled depressions, and certain artificial reflecting or swimming pools.

In addition, the final rule defines prior converted cropland consistent with USDA's definition, and we are committed to partnering with USDA to ensure we implement the term clearly and consistently. To support this goal, EPA, USDA, and the Army issued a joint implementation memo upon publication of the final WOTUS rule to ensure that federal wetland programs, including those that identify prior converted cropland, are administered in an efficient and effective manner.

The Clean Water Act also provides the agricultural community with permitting exemptions that apply even in those circumstances where jurisdictional waters occur in agricultural areas. The statute itself identifies normal farming activities that do not require permits, and the definition of WOTUS does not change that. This includes many common activities like plowing, seeding, and minor drainage, as well as activities like the construction and maintenance of irrigation ditches, and maintenance of drainage ditches.

EPA and the Army conducted extensive outreach to agricultural stakeholders throughout the rulemaking process, meeting with dozens of farm groups on this issue between the pre-proposal phase and public comment period in 2021-2022. In addition, EPA's Farm, Ranch and Rural Communities Federal Advisory Committee, which is made up of more than thirty farmers, ranchers, and agricultural stakeholders to provide independent policy advice to the Agency,

submitted WOTUS recommendations in January 2022. This committee’s feedback was incorporated into the final rule in meaningful ways.

During these outreach efforts, stakeholders often raised concerns about challenges pertaining to implementation of the definition of WOTUS rather than specifics of the regulatory text. In response, EPA and the Army convened WOTUS regional roundtables in the spring of 2022 for a diverse range of stakeholders to provide the agencies with a better understanding of the various regional perspectives on implementation. The agricultural community was prominently represented throughout this process, and five of the ten roundtables were organized by agricultural organizations.

NUTRIENTS AND WATER QUALITY

Nutrient pollution is a continuing and growing challenge with profound implications for public health, water quality, and the economy. Excess nutrients contribute to harmful algal blooms, areas of low oxygen known as “dead zones,” and high levels of nitrates that contaminate waters used for recreation, drinking water, wildlife, pets and livestock, and aquatic life—while also damaging the economy in many communities. Last year, EPA released a policy memorandum entitled, Accelerating Nutrient Pollution Reductions in the Nation’s Waters. This memo reaffirms EPA’s commitment to working with federal partners, state agencies, farmers and ranchers, utilities, and other stakeholders to advance progress in reducing excess nutrients in our Nation’s waters.

The framework includes several key strategies, the first of which is focused on deepening collaborative partnerships with agriculture. EPA will seek to expand upon our existing efforts

with USDA, deepen partnerships with agricultural industry stakeholders, and highlight the work of those innovators who are demonstrating new models and approaches to reduce nutrient runoff.

We also plan to champion innovative financing and use the full flexibility of the Clean Water Act regulatory framework to achieve our goals. This includes spurring development of more effective technologies, driving market-based approaches, and strengthening agriculture-water sector partnerships.

PFAS

Harmful per- and poly-fluoroalkyl substances (PFAS) are an urgent public health and environmental issue facing communities across the country. PFAS have been used for decades in a wide range of products and industries, persist in the environment, and pose risks to human health.

The food supply in the United States is among the safest in the world. At the same time, we understand that PFAS contamination presents unique and complex challenges to farmers and ranchers. That's why EPA is working to bring all of its resources and authorities to bear to provide science-based solutions to protect public health, including our food and agricultural system.

In October 2021, EPA released our PFAS Strategic Roadmap, which laid out plans to restore federal leadership and advance key actions to safeguard public health, protect the environment, and hold polluters accountable that have manufactured and released significant

amounts of PFAS into the environment. Recent actions include proposing to designate PFOA and PFOS as CERCLA hazardous substances and meeting with representatives from the agricultural community to discuss their views on the development of an enforcement discretion policy under CERCLA. EPA has also proposed a national drinking water standard for six PFAS substances, and we have begun distributing \$10 billion in Bipartisan Infrastructure Law funding to address emerging contaminants in water, including PFAS, much of which will provide critical investments for small, disadvantaged, and rural communities.

We have also announced our commitment to finalize a risk assessment for PFOA and PFOS in biosolids by the end of 2024. The risk assessment is a comprehensive effort to determine the risks to human health and the environment based on exposure to PFOA and PFOS in biosolids, including the potential impacts on crops and grazing lands through land application. The Risk Assessment will help EPA determine what standards for biosolids, or other actions, may be necessary to mitigate those risks.

In addition, Congress provided EPA with \$8 million in the FY 2023 omnibus appropriations bill to prioritize new federal research that will help farmers, ranchers, and rural communities manage PFAS in agricultural settings. The Agency will work with USDA to invest in agronomic research to better understand PFAS uptake in plants and animals to reduce exposure in our food supply and promote farm viability.

EPA is committed to working with our federal and state partners and the agricultural community to ensure the continued safety of the food supply while protecting farmers, ranchers and their families from the potential risks of PFAS exposure.

RURAL INFRASTRUCTURE

I am proud of EPA's ongoing work to help rural water systems and communities. Thanks to the Bipartisan Infrastructure Law, our Agency has a historic \$43 billion to invest in our Nation's water infrastructure through state revolving funds, and nearly half of these dollars must go out as grants or forgivable loans to disadvantaged communities, which includes many rural communities. We're also providing more than \$150 million in technical assistance grants over the next five years, and that includes dedicated resources to support rural communities.

We know that an estimated 2.2 million people across the country lack basic running water and indoor plumbing in their homes. The Bipartisan Infrastructure Law presents a historic opportunity to address this challenge. That's why EPA and USDA Rural Development are partnering with states, communities, and Tribes on a pilot program called "Closing America's Wastewater Access Gap." EPA and USDA-RD will jointly leverage technical assistance resources to help historically underserved communities identify, and pursue, federal funding opportunities to address their wastewater needs. This initiative will be piloted in Alabama, Kentucky, Mississippi, New Mexico, North Carolina, West Virginia, as well as in the Santo Domingo Pueblo in New Mexico and the San Carlos Apache Tribe in Arizona. The initiative will also provide a roadmap that can be scaled to additional communities across the country.

CLIMATE CHANGE

Finally, I was proud to announce last year that EPA has rechartered our longstanding Farm, Ranch and Rural Communities Federal Advisory Committee (FRRCC), which provides independent advice and recommendations to the Agency on environmental issues important to our agriculture and rural communities. I appointed nearly twenty new committee members and charged the committee with evaluating the Agency's policies and programs at the intersection of agriculture and climate change.

For the next two years, the FRRCC will consider how EPA's tools and programs can best advance our Nation's agriculture sector's climate mitigation and adaptation goals. By identifying and leveraging voluntary, incentive-based opportunities; public-private partnerships; and market-based approaches, EPA can support farmers and ranchers in their efforts to reduce emissions, sequester carbon, and accelerate a more resilient food and agriculture system.

CONCLUSION

EPA's mission is to protect human health and the environment, which is a responsibility I take very seriously. I believe this mission goes hand-in-hand with supporting American agriculture and rural communities. Clean water, clean air, and healthy soils are fundamental to the success of U.S. agriculture, and I believe we share a mutual commitment to science-based decision making and a desire to leave our planet better than we found it.

Thank you again for the opportunity to visit with the Committee this morning. I look forward to answering your questions and learning how we can work together more effectively to

create a thriving agricultural system that will meet the needs of our farmers and the needs of our Nation, now and in the future.