



State of West Virginia  
Office of the Attorney General  
Patrick Morrissey  
Attorney General

May 28, 2024

The Honorable Cathy McMorris Rodgers  
2188 Rayburn House Office Building  
45 Independence Ave SW  
Washington, D.C. 20515

Dear Representative McMorris Rodgers:

We write in support of your bill, the Accounting for the Uses, Disbursements, and Income on our Taxes at EPA Act (H.R. 8395). The AUDIT EPA Act would shine a much-needed spotlight on the Environmental Protection Agency’s recent use of taxpayer funds to destroy the American energy industry by implementing draconian measures under the Clean Air Act. Considering how often EPA has recently relied on “little-used backwater[s]” of the Clean Air Act to impose big consequences,<sup>1</sup> Americans need an objective, independent picture of just what EPA is up to.

As you know, EPA has seen its power and reach grow under the Biden administration. The agency has spent tens of billions of dollars and grown its ranks by almost 1,000 employees since the Trump administration. Worse, it seems there’s no end in sight, as President Biden’s 2025 budget seeks another 20% increase in funding for the agency. And the agency has not been a careful steward of its sizeable funds. One congressional review, for instance, showed that EPA funds had gone to “empathetic listening trainings, tree walk-and-talks, making musical presentations[,] ... and buying clothing.”<sup>2</sup> In other public statements, EPA has talked of getting “every dollar ... out the door” lest those funds return to Treasury to serve other useful purposes.<sup>3</sup>

But most problematically, EPA has devoted substantial time and staff attention to dismantling traditional American energy. We can only imagine the millions of dollars and thousands of personnel hours that have been devoted to projects designed to shift American energy to the present administration’s preferred sources. Much of this regulation spree—a great bit of it relating to the Clean Air Act—has consisted of EPA unwinding the same work that it did just a few years ago under a pro-business administration. The result? A less reliable grid, an American economy

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<sup>1</sup> *West Virginia v. EPA*, 597 U.S. 697, 730 (2022).

<sup>2</sup> Press Release, Chuck Grassley, Grassley: The EPA Is Throwing Taxpayer Money Around Without A Care In The World (Mar. 7, 2024), <https://bit.ly/44UoHnO>.

<sup>3</sup> EPA, *Environmental and Climate Justice Communities Grants Program*, YOUTUBE (Jan. 25, 2023), <https://bit.ly/44NFRmZ> (@11:40).

strained by uncertainty and onerous new rules, and an agency that has seemingly lost sight of its central mission—to work “closely with industry,” not against it.<sup>4</sup>

EPA’s anti-energy campaign has led to another enormous line-item expense: litigation. Because the agency has so often acted without appropriate authority, the States have been compelled to respond. Litigation over unlawful and burdensome EPA regulatory efforts under the Clean Air Act has proliferated across the country just in the last few months.<sup>5</sup> Tax dollars from hardworking Americans are better spent on things other than lawyers. But as of late, lawsuits have proved to be the only effective check on EPA’s otherwise unrestrained authority.

That’s why we’re pleased to see your proposal. With more insight into what EPA is doing (and how it’s doing it), we’re confident that Americans will begin to demand more answers from an agency that—thus far—seems unwilling to give any. The twin specters of climate change and air pollution should not be used to justify giving EPA a free pass. The agency should be called to meaningfully account for its work.

We offer only one additional suggestion: although focusing on the Clean Air Act and air pollution is a great place to start—the list of lawsuits above shows us that much—it should hardly be the only focus. EPA has also shown itself willing to use the other statutes that it’s charged with implementing to achieve the same destructive ends. On the same day that it announced two anti-traditional-energy measures under the Clean Air Act, for instance, EPA also announced two sets of harmful new regulations under the Clean Water Act and the Resource Conservation and Recovery Act.<sup>6</sup> So to the extent possible, Congress should compel EPA to answer for *all* its oppressive regulatory efforts.

Thank you again for standing up for those bearing the brunt of EPA’s aggression. Like you, we, too, “want to understand why EPA thinks the U.S. will be able to maintain economic leadership with these anti-manufacturing, anti-American policies.”<sup>7</sup>

Sincerely,



Patrick Morrissey  
Attorney General

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<sup>4</sup> Press Release, EPA, EPA’s First Administrator on the Establishment of EPA (Dec. 16, 1970), <https://bit.ly/3yw06JN>.

<sup>5</sup> See, e.g., *Nebraska v. EPA*, No. 24-1129 (D.C. Cir. filed May 13, 2024); *West Virginia v. EPA*, No. 24-1120 (D.C. Cir. filed May 9, 2024); *North Dakota v. EPA*, No. 24-1119 (D.C. Cir. filed May 8, 2024); *Kentucky v. EPA*, No. 24-1087 (D.C. Cir. filed Apr. 18, 2024); *Oklahoma v. EPA*, No. 24-1059 (filed Mar. 12, 2024); *Kentucky v. EPA*, No. 1050 (D.C. Cir. filed Mar. 6, 2024); *West Virginia v. EPA*, No. 24-1009 (D.C. Cir. filed Jan. 16, 2024).

<sup>6</sup> See Supplemental Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category, 89 Fed. Reg. 40,198 (May 9, 2024); Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; Legacy CCR Surface Impoundments, 89 Fed. Reg. 38,950 (May 8, 2024).

<sup>7</sup> Press Release, Cathy McMorris Rodgers, McMorris Rodgers Introduces Bill to Audit Biden’s EPA, Leads E&C Oversight of the Agency’s Budget (May 15, 2024), <https://bit.ly/3wBlrjk>.

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