

the leader prioritize Mr. Wehrum's confirmation vote so that we can give the Office of Air and Radiation the leadership it needs to make the important policy objectives of the President and a majority of our colleagues and States a reality.

Again, we have five EPA nominees that have been voted out of committee, and we are now into November and only have one EPA appointee confirmed. We need to do better than that, and I think this is going to happen.

Let me just repeat some of the things that are going on in the Environmental Protection Agency. Scott Pruitt in his meeting yesterday called this to the attention of the American people. We knew it all the time, but people on the outside didn't know it and they were shocked. They found out that in the Scientific Advisory Board of the Obama administration, six of the seven on the board were direct recipients of grants from the EPA and they were making policy decisions for the EPA. Now, how bad is that? In fact, we added it up. I would state to the Chair that it came to \$119 million going to six people who are on the board making decisions that affected the grants to go out. That is the type of thing that he is cleaning up. He has the guts to do it, and he is doing it.

I am anxious to get these two confirmed, and I am hopeful that will take place.

With that, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SULLIVAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that notwithstanding rule XXII, that at 11:30 a.m. on Thursday, November 2, there be 30 minutes of postcloture time remaining on the Eid nomination, equally divided between the leaders or their designees; that following the use or yielding back of that time, the Senate vote on the confirmation of the Eid nomination; that if confirmed, the motion to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to legislative session for a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa.

REGULATORY REFORM

Mr. GRASSLEY. Mr. President, last month the Environmental Protection Agency—EPA—Administrator, Scott Pruitt, issued a directive to all Agency employees that prohibits the so-called sue-and-settle process. This is good news for good government.

Most of us here are familiar with the term "sue and settle."

These are tactics whereby the EPA has, in the past, resolved certain lawsuits against it through agreements negotiated behind closed doors with politically favored interest groups. As we saw under the Obama administration, some of these agreements committed the EPA to take far-reaching regulatory action, all without an adequate opportunity for those people most impacted to have a seat at the table, as would normally be done through the regulatory process.

Today, I come to the floor to applaud Administrator Pruitt's leadership in working to end these tactics, which make a mockery of laws that Congress has put in place to ensure a transparent and accountable regulatory process. The commonsense reforms outlined in Administrator Pruitt's directive will, no doubt, help restore transparency and accountability, and these reforms should stand as a prime example for all Federal agencies to follow.

Accordingly, I call upon President Trump to use his full authority through Executive order to ensure that similar reforms are adopted across the entire bureaucracy. Regulatory decisions that affect key parts of our economy should be made in an open, transparent, and, consequently, accountable manner. But as we have seen with sue and settle, Washington bureaucrats and their interest group pals would prefer to do things their own way.

It works like this. First, an interest group sues a Federal agency, claiming the agency has failed to take regulatory action required by law. Through the lawsuit, the interest group seeks to compel the agency to take action by a new, often rushed, deadline. These plaintiff interest groups often share a common regulatory agenda with the agency they sue, such as when an environmental group sues the EPA or the Fish and Wildlife Service.

Instead of challenging the lawsuit, the agency and the interest group enter into negotiations behind closed doors to produce either a "settlement agreement" or a "consent decree" committing the agency to take regulatory action. There is no transparency, no accountability, which you would get through normal regulation writing.

Noticeably absent from these negotiations are the very parties who will be most impacted, such as farmers, manufacturers, and even the 50 States themselves, which will be charged with enforcing some of these regulations. In 2010, for example, an environmental interest group sued the Obama administration EPA to force the agency to revise certain wastewater regulations.

Wouldn't it be nice to have the people who are affected by those regulations involved in the process in an open way—the way the Administrative Procedure Act is designed?

Oddly enough, the same day the lawsuit was filed, the plaintiff interest group submitted a consent decree already signed by the EPA, which committed the agency to take prompt regulatory action. Such a scenario should raise serious questions about how truly adversarial these lawsuits and negotiations are.

To add insult to injury, regulations that have resulted from sue-and-settle tactics impose tremendous costs on the American economy. According to the American Action Forum, from 2005 to 2016, 23 sue-and-settle regulations resulted in a cost burden of \$67.9 billion, with \$26.5 billion in actual costs. Sixteen of the rules imposed paperwork burdens on American job creators of more than 8 million hours. Think about that. Nearly \$70 billion in regulatory costs were imposed on American business owners, manufacturers, farmers, and probably taxpayers, all without due regard for transparency and the normal rulemaking process required by the Administrative Procedure Act.

Decades ago, Congress enacted the Administrative Procedure Act for the sole purpose of ensuring transparency, accountability, and, more importantly, public participation in Federal rulemaking. The EPA has been described as the citizens' "regulatory bill of rights." A pillar of the Administrative Procedure Act is the notice-and-comment process, which requires agencies to notify the public of proposed regulations and respond to comments submitted—in other words, transparency.

Rulemaking driven by sue-and-settle tactics frequently results in reprioritized agency agendas and rushed deadlines for regulatory action. This renders the EPA's notice-and-comment process a mere formality. It deprives regulated entities, it deprives the States, and most importantly, it deprives the American public of sufficient time to have any meaningful input on final rules. The resulting regulatory action is driven not by the public interest but by the special interest priorities.

Sue-and-settle tactics also help agencies avoid accountability for their actions. Instead of having to answer to the public for controversial regulatory decisions, agency officials will simply point to a court order and say that their hands are tied, when really they welcomed that process.

The American people deserve better, but don't just take my word for it. The Environmental Council of the States, a national nonprofit, nonpartisan association of State and territorial environmental agency leaders, adopted a resolution in 2013 entitled "The Need for Reform and State Participation in EPA's Consent Decrees which Settle Citizen Suits." The rationale behind it