LAMAR S. SMITH, Texas
CHAIRMAN

EDDIE BERNICE JOHNSON, Texas
RANKING MEMBER

Congress of the United States
House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY
2321 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6301
(202) 225-6371
www.science.house.gov

December 6, 2013

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator McCarthy,

We are writing to express our serious concerns with the lack of balance and transparency in the Environmental Protection Agency's (EPA) public outreach process associated with forthcoming greenhouse gas regulations for existing power plants. As you know, these regulations are likely to be among the most costly in EPA history, with the potential to have major negative impacts on the affordable and reliable electricity that is a foundation of America's economic strength.

On September 30, EPA announced a "listening session tour" to "solicit ideas and input from the public and stakeholders about the best Clean Air Act approaches" to regulating existing power plants.[1] In the Agency's own words, "the feedback from these 11 public listening sessions will play an important role in helping EPA develop smart, cost-effective guidelines that reflect the latest and best information available."[2]

The listening sessions, which concluded on November 8, had the potential to be a genuine opportunity for EPA to ensure a robust, interactive process that could result in sensible, balanced, rulemaking. However, this opportunity was squandered due to two fundamental flaws in EPA's approach.

First, as has been widely reported, EPA chose to hold nearly all of these listening sessions in areas of the country that would be the least affected by the rules. EPA's Public Involvement Policy states that "when the subject of a public hearing, meeting or other information exchange process relates to conditions or facilities in a specific geographic area, EPA should hold the public hearing or meeting in that general geographic area."[3] Nonetheless,

---

[1] EPA News Release, "EPA to Hold Public Listening Sessions on Reducing Carbon Pollution from Existing Power Plants," Sep. 30, 2013, *available at* http://yosemite.epa.gov/opa/admpress.nsf/d0cf6618525a9efb85257359003fb69d/58f7b2a02ac26ea885257bf6006b6908!opendocument [hereinafter EPA News Release].
[2] EPA News Release at 1.
[3] EPA's Office of Policy, Economics and Innovation, "Public Involvement Policy," May 2003, *available at* http://www.epa.gov/publicinvolvement/pdf/policy2003.pdf.

states which are among the most reliant on coal for electricity generation in the country were ignored. Adding insult to injury, we were disappointed that at the Committee's November 14th hearing you rejected multiple requests from us to hold additional listening sessions.

Second, and perhaps even more troubling, it is our understanding that EPA did not transcribe, webcast, or otherwise record the comments presented at the 11 listening sessions. If there is no record of what was said, it's unclear how the Agency can claim the sessions were designed for the purpose of "helping EPA develop smart, cost-effective guidelines."[4] While EPA did allow written comments to be submitted at the sessions, many if not most presenters gave only oral remarks. In addition, it is our understanding that EPA does not intend to make public the written comments that were submitted.

Given these concerns, we request your response to the following items.

1. Why did EPA ignore the requirement in its Public Involvement Policy to hold listening sessions in the geographic areas of the country most affected by the upcoming rule?

2. We request that EPA hold listening sessions on the forthcoming rules in the States most affected by EPA's upcoming rule and that these sessions be transcribed and made part of the public docket associated with the regulations. We stand ready to work with you and appropriate state and local officials to ensure these can be scheduled and carried out at minimal cost and burden to the Agency.

3. On November 1, 2013, EPA Assistant Administrator for Air and Radiation, Janet McCabe, issued a statement on the EPA website asserting that "[w]e want to be open to any and all information about what is important to each state and stakeholders" and that "[w]e've been working with everyone from governors, mayors, Members of Congress, state and local government officials – from every region of the country — to environmental groups, health organizations, faith groups, and many others."[5] For each of our states, please provide a list of EPA meetings with and outreach to stakeholders since August 1, 2013.

4. Please explain why EPA chose not to transcribe or otherwise record the public listening sessions. How can the sessions' objective to ensure EPA develops smart and cost-effective guidelines possibly be met if the EPA staff responsible for writing the rule do not even know what the comments were? What opportunities exist to collect and archive commenters' remarks, or otherwise remedy this decision?

5. In order for stakeholders and the public to see the input that the Agency is considering, we ask that EPA make public all written comments submitted to the Agency associated with these listening sessions, as well as through the carbonpollutioninput@epa.gov online portal.

---

[4] EPA News Release at 1.

[5] EPA Connect, "Vigorous Public Outreach to Cut Carbon Pollution and Fight Climate Change," Nov. 1, 2013, *available at* http://blog.epa.gov/epaconnect/2013/11/carbon-pollution-outreach/.

We recognize that we have significant policy differences when it comes to these rules. However, there are clearly areas of opportunity for cooperation. Ultimately, the credibility of EPA decisions in these areas will be greatly enhanced if the American people can trust the process through which such decisions are reached. We look forward to working with you to make this happen.

Sincerely,

Chairman Chris Stewart
Environment Subcommittee
Utah-2nd

Chairman Cynthia Lummis
Energy Subcommittee
Wyoming-AL

Chairman Larry Bucshon
Research & Technology Subcommittee
Indiana-8th

Chairman Steven Palazzo
Space Subcommittee
Mississippi-4th

Rep. Jim Sensenbrenner
Wisconsin-5th

Rep. David Schweikert
Arizona-6th

Rep. Thomas Massie
Kentucky-4th

Rep. Kevin Cramer
North Dakota-AL

Rep. Jim Bridenstine
Oklahoma-1st

Sensenbrenner: R 2449

Buchson: L 1005

Cramer: L 1032

Schweikert: L 1205

Lummis: C 113

Bridenstine: C 216

Massie: C 314

Stewart: C 323

Palazzo: C 331