

ISSUE BRIEF

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10 Questions for EPA Nominee Gina McCarthy

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If confirmed as administrator of the Environmental Protection Agency (EPA), nominee Gina McCarthy will inherit an agency exceeding critical mass. This bureaucratic onslaught has decreased American freedom and the EPA's ability to efficiently address real environmental challenges. Given that McCarthy has helped to build this epitome of regulatory excess, it is important that the confirmation hearing clarify what the proper role of the EPA and the proper role of the administrator should and should not be.

1. Do you agree with former EPA administrator Lisa Jackson that unilateral actions on greenhouse gas emissions will not significantly impact global emissions and thus have a negligible effect on climate change?¹ The EPA's greenhouse gas regulations, along with a host of other onerous regulations, are unnecessarily driving out conventional fuels as part of America's energy mix. The consequences are higher energy prices for families and a contraction of our nation's economic growth.

And all this would have no noticeable impact on the earth's temperature, as major developing countries such as India and China have repeatedly said

they would not cut economic growth to curb greenhouse gas emissions.

2. With regard to energy efficiency, do you believe that the federal government makes better choices than individuals and families? Proponents of efficiency standards argue that they save consumers and businesses money, reduce energy use, and reduce emissions. But families and businesses already understand how energy costs impact their lives and make decisions accordingly.

When consumers do not take full advantage of efficiency gains, it is because they are weighing other factors that influence their decision making. When the federal government arbitrarily places one of those factors over others, it makes consumers worse off.

3. Does the EPA accurately assign costs and benefits to its regulations? The EPA is notorious for understating regulatory costs and overestimating benefits. For instance, the agency estimated that its mercury and air toxics rule (known as "Utility MACT") would produce \$53 billion to \$140 billion in benefits. In reality, mercury reductions would produce a mere \$6 million in benefits, at most.²

The vast majority of the EPA's purported benefits were derived from the supposed reduction of particulate matter that is already covered under existing regulations.

4. Do you believe regulations under the Clean Water Act (CWA) appropriately define "navigable waters"? Although there are many troubling aspects of the CWA, a threat to individual freedom and the economy at large is the expansive and inconsistent definition of "navigable waters"—the waters regulated under CWA. As a result, the Army Corps of

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Engineers and the EPA have effectively federalized all waters and wetlands in the United States.

Congress enacted the CWA to deal with factories releasing pollutants into the nation's rivers, but the definition of "navigable waters" has been stretched well beyond congressional intent. The EPA and the Army Corps of Engineers now consider "navigable waters" to include wetlands, sandflats, and prairie potholes.³

5. Lisa Jackson acknowledged that the states "are stepping up and doing a good job" regulating hydraulic fracturing. Do you see a need for the EPA to regulate fracking? States are not just now stepping up: They have effectively regulated oil and gas production and hydraulic fracturing for decades.⁴ States with tremendous oil and natural gas reserves have the most to gain economically from proper regulation.

Further, state officials are much more directly accountable to voters than the feds and face more immediate consequences if they fail to protect the environment. Allowing the states to govern fracking is a much more effective process than an onerous, duplicative, one-size-fits-all federal approach.

6. Evidence abounds that the EPA's analyses lack scientific credibility. What actions, if any, would you take to ensure that the agency applies the best science available through rulemaking? In most cases, the EPA is required

to document a threat to public health or the environment before issuing a new regulation. But evidence abounds that the agency routinely relies upon speculative and poorly constructed computer models to justify its rulemaking. The Government Accountability Office,⁵ among others, has revealed serious shortcomings in the agency's scientific analyses. Unjustified regulations misdirect resources from real threats and thus jeopardize public health and safety.

7. Is a new Clean Air Act (CAA) needed given the tremendous improvement in air quality over the last 30 years? The EPA's plethora of new environmental air quality regulations has been appropriately called a "regulatory train wreck."⁶ Although these regulations affect all large power plants and electric utilities, they hit coal plants the hardest. As a result, a considerable amount of electricity generation will be taken offline, significantly increasing electricity prices for American ratepayers. A life-cycle greenhouse gas analysis of coal exports could further stifle coal production in the U.S. Many of the new rules carry exorbitant costs, provide little to no benefit, or are based on weak scientific evidence.⁷

8. The Renewable Fuels Standard has been an economic and environmental disaster.⁸ Please justify why Washington should continue mandating the use of ethanol or other so-called biomass. Ethanol is less energy efficient than oil

1. News release, "Jackson Confirms EPA Chart Showing No Effect on Climate Without China, India," U.S. Senate Committee on Environment and Public Works, July 7, 2009, http://www.epw.senate.gov/public/index.cfm?FuseAction=Minority.PressReleases&ContentRecord_id=564ed42f-802a-23ad-4570-3399477b1393 (accessed April 9, 2013).
2. Anne E. Smith, "Technical Comments on the Regulatory Impact Analysis Supporting EPA's Proposed Rule for Utility MACT and Revised NSPS (76 FR 24976)," NERA Economic Consulting, August 3, 2011, http://www.nera.com/nera-files/PUB_Smith_EPA_report_0811.pdf (accessed June 19, 2012).
3. M. Reed Hopper, "The Clean Water Act: A Problem with a Solution," *Environmental Conservation: Eight Principles of the American Conservation Ethic*, July 2012, pp. 29-33, http://thf_media.s3.amazonaws.com/2012/EnvironmentalConservation/Chapter3-The-Clean-Water-Act.pdf.
4. See Nicolas D. Loris, "Hydraulic Fracturing: Critical for Energy Production, Jobs, and Economic Growth," Heritage Foundation *Backgrounder* No. 2714, August 28, 2012, <http://www.heritage.org/research/reports/2012/08/hydraulic-fracturing-critical-for-energy-production-jobs-and-economic-growth>.
5. U.S. Government Accountability Office, *Scientific Integrity: EPA's Efforts to Enhance the Credibility and Transparency of Its Scientific Processes*, GAO-09-773T, June 9, 2009, <http://www.gao.gov/products/GAO-09-773T> (accessed April 9, 2013).
6. American Legislative Exchange Council, "Economy Derailed: State-by-State Impacts of the EPA Regulatory Train Wreck," 2012, http://www.alec.org/docs/Economy_Derailed_April_2012.pdf (accessed April 9, 2013).
7. Kathleen Hartnett White, "Clean Air Through Liberty: Reforming the Clean Air Act," *Environmental Conservation: Eight Principles of the American Conservation Ethic*, July 2012, pp. 37-48, http://thf_media.s3.amazonaws.com/2012/EnvironmentalConservation/Chapter4-Clean-Air-Through-Liberty.pdf.
8. See Nicolas D. Loris, "Two Cheers for Ethanol Subsidies Expiring—but Costly Mandate Remains," Heritage Foundation *WebMemo* No. 3460, January 17, 2012, <http://www.heritage.org/research/reports/2012/01/ethanol-subsidies-expiring-but-the-costly-mandate-remains>.

and adds to the cost consumers pay at the pump.⁹ Further, many environmental organizations have raised concerns about the increased inputs of energy, pesticides, and fertilizer needed to grow more corn for ethanol production.¹⁰ World hunger organizations have raised concerns about the mandate's effect on food prices.¹¹ If ethanol production is a profitable venture, it should not need to be mandated.

9. Do you plan to address the problematic “sue and settle” strategy between the EPA and environmental activists? Under “sue and settle,” environmental activists sue the EPA (or other federal agencies), mostly in connection with the CAA and CWA, and demand that the EPA implement a regulation in an expedited time frame. The EPA and the environmental group settle behind closed doors, and that settlement is approved by a federal court in a consent decree. Taxpayers foot the bill for the agency implementing the regulation—plus the legal fees for both the government and the environmental organizations. And the result is burdensome regulations arrived at undemocratically with unreasonable compliance time frames.

10. Can an environmental policy be good for the environment if it is bad for people? All environmental policy should be based on the idea that

people are the most important, unique, and precious resource. The inherent value of each individual is greater than the inherent value of any other resource.

Accordingly, human well-being, which incorporates such measures as health and safety, is the foremost measure of the quality of the environment: A policy cannot be good for the environment if it is bad for people.

EPA Needs a New Direction. Every American wants to live in a healthy and clean environment, and the EPA plays an important role in this. However, the EPA has tied the hands of America's most valuable conservators—the American people and their communities. Stewardship of the nation's air, water, and resources is best accomplished by those who stand to gain the most by good management or lose the most by misuse.

The next EPA administrator should free Americans and state governments to continue and increasingly be America's caretakers.

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9. National Average Prices, AAA Mid-Atlantic, Inc., <http://fuelgaugereport.aaa.com/?redirectto=http://fuelgaugereport.opisnet.com/index.asp> (accessed April 4, 2013).

10. News release, “Time to Reform Environmentally Damaging Corn Ethanol Mandate,” Environmental Working Group, February 4, 2013, <http://www.ewg.org/release/time-reform-environmentally-damaging-corn-ethanol-mandate> (accessed April 9, 2013).

11. David W. Kreutzer, “Renewable Fuel Standard, Ethanol Use, and Corn Prices,” Heritage Foundation *Backgrounder* No. 2727, September 17, 2012, <http://www.heritage.org/research/reports/2012/09/the-renewable-fuel-standard-ethanol-use-and-corn-prices?ac=1>.