

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 President, I ask unanimous consent that the order for the quorum call be rescinded.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

provides that “state environmental agencies are not always notified of citizen suits that allege U.S. EPA’s failure to perform its nondiscretionary duties, are often not parties to these citizen suits, and are usually not provided with an opportunity to participate in the negotiation of agreements to settle citizen suits.”

The Environmental Council of the States further resolved that “greater transparency of citizen suit settlement agreements is needed for the public to understand the impact of these agreements on the administration of environmental programs.”

Obviously, I agree. We need more transparency, more accountability, and more voices at the table. In other words, the public’s business ought to be public, not some new regulation agreed to behind closed doors. I am happy to say that this administration is working to accomplish that, thanks to Administrator Pruitt. In his own words: “The days of this regulation through litigation . . . are terminated.”

His directive puts a swift end to sue-and-settle tactics by this one agency, the EPA. It does so by adopting commonsense reforms to promote transparency and public participation in the regulatory process. It requires the publication online of notices of lawsuits filed against the EPA. It requires the EPA to reach out and notify any States or regulated entities that will be affected by the lawsuit. It requires the EPA to seek the agreement of any affected State or regulatory entities before the agency can enter into a consent decree or settlement agreement. Further, it prohibits the EPA from entering into any consent decree or settlement that converts a discretionary duty of the agency into a mandatory duty to issue, revise, or amend a regulation. Most importantly, it requires the EPA to post online for public comment any proposed consent decrees or settlement agreements before they are entered into by the court.

These and other reforms in Administrator Pruitt’s directive mark a very strong step toward ensuring that States, American job creators, and the public at large have a seat at the table when regulatory decisions are made, which is exactly why Congress passed the Administrative Procedure Act.

Before I close, I will add one more thing. Earlier this year, I introduced the Sunshine for Regulatory Decrees and Settlements Act. This bill would make permanent the very types of reforms outlined in Administrator Pruitt’s directive. If it becomes law, it can’t be changed at some later date. In other words, it would ensure that future administrations can’t simply roll back the great work Administrator Pruitt is doing through this directive.

I am pleased to hear that the House of Representatives just passed the companion bill introduced by Congressman DOUG COLLINS. We will continue our work to build bipartisan support here in the Senate for this commonsense decree.

But, today, I urge President Trump to move forward with the example set by Administrator Pruitt because Administrator Pruitt is draining the swamp through this process. The President loves to sign Executive orders. He would probably do more good in draining the swamp by producing an Executive order like this than almost any other Executive order he could do.

There is simply no reason these reforms should be limited to just the EPA. Transparency and public participation are core elements of a more accountable government. Simply stated, they are part of the process of representative government, where people make the laws and where administrators carry out the laws, not where something is done behind closed doors because some special interest wants something or because the agency is begging to do something—which maybe someone doesn’t want them to do—to get it done and to do it behind closed doors, just to work it out the way they want it and not necessarily the way it would be done if people were participating.

I applaud Administrator Pruitt’s directive. I urge the President to promptly see to it that similar reforms are implemented across the administration.

So for a third time today, President Trump, issue an Executive order to all departments to do what Administrator Pruitt has done at the EPA.

#### TRIBUTE TO BRIGADIER GENERAL STEVEN P. BULLARD

Mr. McCONNELL. Mr. President, today I wish to congratulate Brig. Gen. Steven P. Bullard of the Kentucky Air National Guard as he begins his retirement after more than three decades of achievement, service, and sacrifice. This Nation and the Commonwealth of Kentucky thank him for his diligence in defending our safety and security.

Brigadier General Bullard has served as the chief of staff, Headquarters, for the Kentucky Air National Guard and the deputy chief of the Joint Staff, Joint Force Headquarters-Kentucky National Guard since 2012. In these roles, he has been responsible for the guidance and direction of more than 8,500 Army and Air Guardsman in my home State. Brigadier General Bullard has skillfully carried out his responsibilities in these positions, as well as the duties of his civilian role as director of the division of administrative services within the Kentucky Department of Military Affairs.

On numerous projects, he was the critical link between my office and the Kentucky Guard. I know that many on my staff who have had the privilege of interacting with him have appreciated Brigadier General Bullard’s dependability and talent, which I am told also extends to the golf course.

Entering officer training school at Lackland Air Force Base in 1985, Brigadier General Bullard took the first steps of his decorated military career.

He later achieved the rating of master navigator, having completed more than 5,500 flight hours on various aircraft. Over the years, Brigadier General Bullard flew missions in 75 countries, including a deployment to Afghanistan during Operation Enduring Freedom. One might think that, with such aviation skill, he would have more luck traveling as a passenger on commercial air, but his colleagues report that throughout his career, a number of commercial flights he has traveled on have experienced weather or maintenance delays resulting in numerous nights in the airport for the trained airman.

Brigadier General Bullard has earned and been awarded numerous military awards and decorations for his selfless service to the Commonwealth and his Nation. These honors include the Bronze Star Medal, the Meritorious Service Medal with two bronze oakleaf clusters, the Air Medal with one bronze oakleaf cluster, and the Kentucky Distinguished Service Medal. These awards are recognition of Brigadier General Bullard’s distinguished actions on behalf of our Nation and Kentucky.

The men and women of Kentucky’s National Guard serve a unique mission in our Armed Forces. Their efforts to help fight our Nation’s wars, defend our homeland, provide relief from natural disasters, and maintain critical State, Federal, and international partnerships in support of our Nation’s safety and security have demonstrated the vital nature of the National Guard’s service. I am proud to represent them in the U.S. Senate, and I am grateful for their sacrifice on behalf of our Commonwealth and our Nation.

As we celebrate Brigadier General Bullard’s retirement, we are also saddened to lose such a capable and dedicated public servant. In addition to his responsibilities at headquarters, Brigadier General Bullard has also worked as the chairman of the Louisville Armed Forces Committee, two terms as the president of the National Guard Association of Kentucky, and as the volunteer executive director of the Kentucky Committee for Employer Support of the Guard and Reserve. On behalf of the people of Kentucky, I would like to thank him for his 32 years of achievement and service. He has earned a relaxing retirement, spending time with his family and friends. Finally, I would ask my colleagues in the Senate to join me in paying tribute to Brigadier General Bullard, a brave American, a selfless public servant, and a proud Kentuckian.

#### TRIBUTE TO DR. GLENN POSHARD

Mr. DURBIN. Mr. President, Dr. Glenn Poshard has served the United States in many ways. He served in the military and taught in high school. He represented rural southern Illinois in the Illinois State Senate from 1984 to