

**TESTIMONY OF
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U.S. ENVIRONMENTAL PROTECTION AGENCY**

BEFORE THE

**SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS
SUBCOMMITTEE ON REGULATORY AFFAIRS AND FEDERAL MANAGEMENT**

AGENCY PROGRESS IN RETROSPECTIVE REVIEW OF EXISTING REGULATIONS

November 5, 2015

Good morning Chairman Lankford, Ranking Member Heitkamp and members of the subcommittee. I am Bill Nickerson, Acting Director of the Office of Regulatory Policy and Management in the Office of Policy at the U.S. Environmental Protection Agency. I am pleased to be here today to discuss EPA's record on regulatory retrospective review. We have made great progress in this area over the past four years and look forward to doing even more in the future. Under Executive Order (EO) 13563, "Improving Regulation and Regulatory Review," the EPA conducted extensive public outreach in 2011 to seek input on whether and how to streamline, expand or repeal existing regulations. This outreach included twenty public meetings as well as a number of web-based dialogues. The agency also published two *Federal Register* notices to solicit public feedback on the agency's plan for the review of existing regulations. It received more than 1,400 suggestions. Since 2011, the EPA has maintained an open docket for public feedback on its retrospective review plan and subsequent progress reports.

The agency has conducted fifty retrospective reviews under EO 13563. Twenty-two of these reviews have been concluded, resulting in the amendment of nine regulations. For example, one action that was completed was amending the Spill Prevention, Control, and Countermeasure (SPCC) regulations. Another action amended regulations related to the emission control systems that capture harmful fuel vapors when you are filling your gas tank, or onboard vapor recovery. Together these two actions will result in approximately \$250 million per year in cost savings. The remaining reviews have required other actions, including the revision of agency guidance or evaluation criteria to affect how regulations are implemented. Since 2011, EPA has continued to

expand our retrospective review activities. In July, we added six new actions to our retrospective review plan.

The EPA uses a thorough process for soliciting regulations for reviews. We ask for nominations from the public, agency staff members, and other federal agencies. These nominations are referred to the appropriate agency office for consideration. Decisions on the review of regulations take into account consistency with statutory requirements and agency priorities, the principles of EO 13563, and the availability of agency resources.

Earlier this year, EPA redoubled its efforts to solicit public input on retrospective reviews. At a quarterly meeting with intergovernmental organizations including the Environmental Council of States, the National Governors Association, and the National Conference of State Legislatures, we reached out to state and local governments on potential opportunities to streamline existing processes and reduce regulatory burden. In March, EPA published a notice in the *Federal Register* seeking public input on how it might promote retrospective review and regulatory modernization through advanced information technology. The agency received twenty-seven public comments on this topic and is currently in the process of reviewing these comments for potential future activities for retrospective review, streamlining, and/or transition to electronic reporting.

The EPA's effort to implement EO 13563 is not the sole pathway for the review of existing regulations. The agency has long conducted retrospective reviews of its actions. Regular assessment of past regulatory actions is integral to the EPA's core mission and responsibilities and is often mandated by statute. Of the approximately 120 active actions listed in the EPA's Spring 2015 Semiannual Regulatory Agenda, roughly 60 percent are reviews of existing regulations. For example, the EPA is required to review National Primary Drinking Water Regulations every six years under the Safe Drinking Water Act. The Clean Air Act requires the review of National Ambient Air Quality Standards actions every five years; New Source Performance Standards and Maximum Achievable Control Technology standards must be reviewed every eight years.

The EPA is committed to protecting human health and the environment and is continually improving the processes to achieve these protections. The agency regularly engages stakeholders on our retrospective review efforts to identify opportunities for streamlining existing processes, improving our regulations, and increasing use of innovative tools that ease and facilitate compliance. The EPA assesses progress on existing retrospective review activities semiannually and provides this information to the public on our website, at www.epa.gov/regdarrt/. We maintain an open comment docket for any public feedback on our semiannual progress reports and are responsive to all public comments received related to retrospective review. When writing new regulations, the EPA is committed to designing reporting requirements that help facilitate later evaluation of rule effectiveness in improving environmental quality.

The EPA has a long history of thoughtfully examining our regulations to make sure they are meeting the needs of the nation in an efficient and streamlined manner. Further, we have a robust record of working with states, tribes, local governments, the regulated community, and other stakeholders to ensure we coordinate our efforts where possible.

Thank you Chairman Lankford, Ranking Member Heitkamp, and members of the subcommittee for this opportunity to discuss the agency's efforts related to retrospective review of regulations. I will be happy to answer your questions.