

The Environmental Protection Agency in the Early Trump Administration: Prelude to Regulatory Capture

We explore and contextualize changes at the Environmental Protection Agency (EPA) over the first 6 months of the Trump administration, arguing that its pro-business direction is enabling a form of regulatory capture. We draw on news articles, public documents, and a rapid response, multisited interview study of current and retired EPA employees to (1) document changes associated with the new administration, (2) contextualize and compare the current pro-business makeover with previous ones, and (3) publicly convey findings in a timely manner.

The lengthy, combined experience of interviewees with previous Republican and Democratic administrations made them valuable analysts for assessing recent shifts at the Scott Pruitt-led EPA and the extent to which these shifts steer the EPA away from its stated mission to “protect human and environmental health.” Considering the extent of its pro-business leanings in the absence of mitigating power from the legislative branch, we conclude that its regulatory capture has become likely—more so than at similar moments in the agency’s 47-year history.

The public and environmental health consequences of regulatory capture of the EPA will probably be severe and far-reaching. (*Am J Public Health*. 2018;108:S89–S94. doi:10.2105/AJPH.2018.304360)

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Under Administrator Scott Pruitt, the US Environmental Protection Agency (EPA) has undergone rapid shifts in its stated priorities, policies, and other practices that have broken with not only the Obama administration but all its past history. Pruitt and other Trump appointees seek what policy scholar David Carpenter describes as “electorally sanctioned pro-business governance.”^{1(p210)} Yet what they are actually accomplishing comes closer to what Carpenter, David Moss, and other social scientists term “regulatory capture”: when “regulation is . . . directed away from the public interest and toward the interest of the regulated industry” by “intent and action” of industries and their allies.^{1(p73)}

Although scholars and activists have criticized the EPA for years—among other reasons, for its susceptibility to industry influence—the speed, ambition, and reach of the new administration’s effort to curb the EPA’s regulatory work exceeds those of its closest pro-business counterparts, the early Reagan and George W. Bush administrations. Drawing on the notion of “public interest” as defined by scientific, policy, and judicial precedents as well as the agency’s long-standing commitments and practices, we argue that the Pruitt-led EPA has moved away

from the public interest and explicitly favored the interests of the regulated industries, thereby opening the door to full-blown regulatory capture. The consequences of this for public and environmental health would be far-reaching.

Theories of regulatory capture have long occupied an important, if only intermittently active niche in the political economy literature.^{2,3} In particular, scholarship on the capture of the federal regulation of financial markets, which emerged in the wake of the 2008 financial crisis, provides useful arguments and heuristics for analyzing the EPA under Trump and Pruitt. This research traces regulatory capture back to the financial boom of the 1990s, which boosted the political power of the banking industry. Similarly, we link the recent domestic oil and gas boom in some states (e.g., Oklahoma) to today’s “secretive alliances”⁴ between those industries and

politicians like Pruitt, who, as attorney general of Oklahoma, sued the EPA 14 times.⁵ The scholarship of Moss, Carpenter, and others sets out rigorous criteria for judging whether pro-business federal agencies, like today’s EPA under Pruitt, veers sufficiently from its public obligations to amount to regulatory capture. They maintain that studies of capture must first establish a model of the public interest, and then show a shift in policy toward industry and special interests. Finally, such studies must demonstrate intentional and causal action on the part of industry, motivating this policy shift.

Broadly speaking, we define the EPA’s public interest by its statutory mandate to protect human health and the environment. Accumulated judicial verdicts and scientific assessments before January 2017 translated this mandate into concrete directives and rule-making on

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many health-related issues, from greenhouse gases to pesticides. Importantly, the EPA's directives, rules, and operations before 2017 often fell short of its mandate, leading to the critiques of scholars, activists, and local communities.^{6–8} Some of these critiques are at least superficially echoed by the EPA's new leadership, such as the demonstration of the agency's hierarchical command approach to regulation as outdated and a misalignment of environmental governance responsibilities among federal, state, and local authorities.⁷ Yet new EPA leadership has thus far aimed at deconstructing, rather than reconstructing, the agency by comprehensively undermining many of the agency's rules, programs, and policies while also severely undercutting its budget, work capacity, internal operations, and morale.

To gather frontline perspectives on the full range of obstacles increasingly imposed on the public-minded pursuit of EPA's mission, we interviewed EPA employees. Our interviewees are valuable informants and analysts of the current situation because of their lived experience with the agency's long-standing practices and (for those still at the EPA) a direct, firsthand perspective. Their testimonies illuminate sharp contrasts between the current EPA and earlier ones, under both Republican and Democratic administrations. Our analysis of these interviews—which is supplemented by scholarly and news publications and government documents—reveals not only the strong emotions and opinions among current and former staffers but also a deep understanding of the agency's multidimensional shift away from a public interest in environmental

health to the interests of the regulated industries.

A separate contribution of this study is to demonstrate a model for rapid response research, which we define as an urgent, research-based response to unanticipated events: in this case, the new Trump administration and its promised changes to the EPA and to US environmental governance more broadly.⁹ During the US presidential primaries, Trump promised to eliminate the EPA “in almost every form,” leaving “only tidbits” intact, and he famously dubbed climate change a hoax.¹⁰ Our team of researchers took these and other words from his EPA transition team seriously and set about to document what we anticipated would be a sweeping and dramatic transformation at the EPA and other federal environmental agencies.

Our research agenda includes examining long-term changes to federal science and environmental policy, but, perhaps more unusually for a scholarly project, we have aimed to publicly release our findings in a timely manner.¹¹ Although our findings are necessarily tentative, they indicate currently unfolding, critical shifts at the EPA and suggest a broad-based research agenda for future studies.

RESEARCH PROCESS

A team of 10 researchers from the Environmental Data and Governance Initiative (EDGI)—an organization of social, physical, life, and data scientists as well as librarians, archivists, and environmental professionals—conducted this study. EDGI formed after the US elections in November 2016 to document, research, and respond to the new administration's effects on federal

environmental agencies, science, and policy.

To investigate regulatory capture at the EPA, we combined historical and contemporary research into news articles, policy statements, Trump's executive orders, and documented decision-making with an extensive interview project involving current and retired EPA employees. Between December 2016 and June 2017, EDGI researchers conducted interviews with 45 current and retired EPA employees, with 6 follow-up interviews (51 total interviews). We identified initial interviewees through preexisting individual relationships (many EDGI researchers have previously interviewed EPA staff for other studies) and through EPA alumni associations. We identified additional interviewees through snowball sampling—also called chain sampling or referral sampling—a standard tool in qualitative research.

Although this study is not a random sample (which is more typical in survey research), our recruitment process was appropriate because of the political context and sensitive nature of our interview questions. Moreover, snowball sampling allowed us to strategically reach people across a wide variety of EPA offices, regions, and professions. EDGI's ongoing interview project is conducted by professors, PhD candidates, and undergraduates with training in a variety of social, health, or natural sciences. Our dispersed locations at multiple institutions across the United States and Canada have enabled us to collect data from the EPA's Washington, DC, headquarters as well as its regional offices.

Initial interviews generally lasted 90 minutes or more (for interview questions, see the

Appendix, available as a supplement to the online version of this article at <http://www.ajph.org>). The follow-up interviews with current employees lasted approximately 45 minutes. More than half of the interviewees had or still worked primarily at EPA headquarters in Washington, DC, two fifths worked at EPA regional offices, and the rest had served stints at both. We conducted roughly two thirds of the interviews in person and one third by telephone. Interviewees came from a range of professional backgrounds—they were lawyers, scientists and policy experts—and had experience in many different parts of the agency, with the enforcement and water offices best represented (Figure A [available as a supplement to the online version of this article at <http://www.ajph.org>]).

We audio-recorded and transcribed interviews. Because of the sensitive nature of the study, all interviews were confidential and we de-identified transcripts. We developed procedures for securely storing and sharing the audio files and transcripts, including encrypted and password-protected files and an end-to-end encryption program. Before beginning each interview, researchers made clear the publication goals of the study—of both academic articles and public reports—and interviewees had a chance to review quotations from their transcripts before publication.

ANALYSIS

The Trump administration has explicitly sought to reorient the EPA toward industrial and industry-friendly interests, often with little or no acknowledgment of the agency's health

and environmental missions. For example:

- **Political appointments**—Appointees have deep ties with industries, including the leader of the EPA's transition team Myron Ebell from the Competitive Enterprise Institute¹² and Pruitt himself (Figure B [available as a supplement to the online version of this article at <http://www.ajph.org>]).
- **Rhetoric**—Pruitt has regularly championed the interests of regulated industries, while rarely affirming environmental and health protections. A separate EDGI study found that Pruitt's first speech as EPA administrator did not include the words "pollution," "health," "ecology," or "climate change." Rather Pruitt asserted that "regulation exists to give certainty to the regulated" and emphasized an EPA commitment to "enhance economic growth."^{13,14}
- **Executive orders**—Several of Trump's executive orders explicitly undermine environmental regulations without mentioning health effects on people and environments. For example, Executive Order 13783, Promoting Energy Independence and Economic Growth, targets "regulatory burdens that unnecessarily encumber energy production . . . and prevent job creation."¹⁵ Pruitt has operationalized Executive Order 13783 at the EPA by calling into review current air pollution controls at power plants and current National Ambient Air Quality Standards (which set health-based standards for 7 pollutants). He has also established a practice of employment evaluation to determine which EPA regulations affect business

development and expansion. The EPA's report on its compliance with Executive Order 13783 lists the goal of repealing the Clean Power Plan and delaying enforcement of methane emission standards for oil and natural gas companies.¹⁶

- **Restructured science advisory boards**—Pruitt dismissed many members of the EPA's Science Advisory Board and its Board of Scientific Counselors, created a new rule preventing EPA-funded scientists from serving on those boards, and—for the first time in agency history—allowed lobbyists on scientific advisory boards.¹⁷
- **Pruitt's own meetings and schedule**, now posted online after many Freedom of Information Act requests, are almost exclusively with company and trade organizations and rarely with environmental, public health, or citizen groups.¹⁸

The first Reagan administration, especially the years 1981 to 1983, stood out in the minds of our interviewees as the clearest historical parallel to the current administration. Much like Administrator Pruitt, Reagan's first EPA administrator, Anne Gorsuch, had actively opposed environmental regulations before assuming leadership at the EPA.¹⁹ Our interviewees remembered Gorsuch as well as Reagan's other political appointees as hostile to the agency's mission. According to one, "None . . . had much qualifying experience" and "definitely didn't seem . . . interested in trying to advance EPA's role as an enforcer of environmental laws." A lawyer who worked at one of the EPA's regional offices described "a lot of dissent with Anne Gorsuch." Historical research,

including our own, confirms these impressions.²⁰

Several employees also drew distinctions between the Gorsuch challenge in the 1980s and what is happening in the EPA today. According to one employee, who recently retired from EPA headquarters, "My sense [was] that when we started . . . even into the 80s, there was just broader support for what the agency did. . . . The question was, ok, we know this is a problem. . . . How do we fix it? . . . No one questioned the premise of what EPA was doing."

Another long-time, recently retired employee also recalled less industry influence in the 1970s and 1980s. The EPA received "pressure [from industry] in the sense of comments, [but] pressure compared to the way pressure is put on today—no. It was much more like a reasonable dialogue."

One reason for this longstanding continuity in EPA practice through the 1980s is that the early Reagan political appointees became mired in scandal after only 2 years, putting Gorsuch's administration under tremendous political pressure and leading to a dramatic shift in agency leadership. Many of these controversies hinged on signs of regulatory capture. For example, the head of the Superfund program, Rita Lavelle, on discovering her former corporate employer, Aerojet, had dumped hazardous waste, failed to excuse herself from the case and then lied about it.²¹ As detailed in a companion article exploring this history, the subsequent return to the EPA of the highly respected first administrator, Republican William Ruckelshaus, went a long way toward restoring employee confidence in the purpose and direction of the agency.²⁰

Our historical analysis, complemented by interviews with

EPA employees, indicates that Pruitt and Trump have surpassed the early Reagan administration in their degree of aggression against the EPA and against public health and environmental protections in particular. For example, Trump himself visited EPA headquarters in March 2017 to sign an executive order targeting the Obama administration's Clean Power Plan. As part of this unprecedented event—previous US presidents had only shown up at EPA headquarters to buoy career employees' morale—coal miners were brought onto the stage, with energy industry executives and their political allies invited to serve as audience. As Trump excoriated the Clean Power Plan as a "crushing attack on American industry," EPA employees could only watch the event via closed-circuit television.²² One employee told us that the event was "beyond painful . . . all the speeches up there . . . it was about basically dismantling the whole climate change program. [Yet] the word 'climate change' was never used."

This dynamic is apparent in other publicly declared intentions and directives as well. Whereas Reagan signed only a single executive order applying to the EPA (requiring a cost-benefit analysis for new agency rules), Trump, in his first 6 months in office, has signed more than 5 executive orders pertaining to the agency, most of them seeking to rescind or undermine existing rules and protections. Neither did Gorsuch go to the extraordinary lengths that Pruitt has to preserve secrecy and autonomy from EPA career staff, such as cordoning his office wing off from career employees, reportedly forbidding note taking at some meetings, and employing 24-hour armed guards as personal

protection.²³ As reported by the *New York Times*, Pruitt has begun to build a \$25 000 sound-insulated booth for his most sensitive telephone discussions.²⁴ Going to such lengths to distance himself from EPA employees, even as he pursues meetings with industry lobbyists and executives, raises serious questions about Pruitt's commitment to a broad-based public interest. Rather, all evidence points to a reorientation of the EPA toward regulated companies at the expense of the EPA's public mission.

SHIFTS IN POLICY AND PRACTICE

Significant policy changes at the EPA favor businesses and industry, while probably incurring considerable health and environmental consequences. The EPA under Pruitt seeks to “undo, delay or otherwise block” at least 30 existing rules that seek to protect health and the environment,²⁵ among them are the following:

- Rejection of a ban on the pesticide chlorpyrifos, currently used widely on food crops, which recent studies have implicated in childhood developmental delays, autism spectrum disorders, and attention problems.²⁶
- Revocation of the Clean Power Plan to reduce emissions of carbon dioxide from coal-fired power plants, the major source of carbon dioxide emissions in the United States. The EPA thus abandons its most far-reaching policy for addressing “threats to human health and welfare” from greenhouse gases, as outlined in its 2009 endangerment finding and supported by a host

of scientific studies as well as courts.²⁷ Emissions from coal-fired power plants are also linked to adverse effects on human health.²⁸

- A 2-year delay of a regulation to prevent accidental releases and protect rescue workers at chemical plants such as those inundated during Hurricane Harvey, which might have better shielded first responders from additional risks.²⁹
- A 1-year delay of a rule imposing stricter standards on who can apply pesticides, estimated by the EPA itself to prevent 1000 acute illnesses per year.³⁰

Policy Insights

Our interviews make clear that Pruitt and his immediate staff have made most of these decisions to reverse or delay rules. The main career employees brought into these discussions include acting assistant administrators, who remain in charge of most EPA offices because of lagging nominations of political appointees.³¹ Other EPA career employees have been largely cut off from this level of deliberation. Revealingly, one interviewee asked a colleague in the pesticide division “whether or not they had been consulted about [the chlorpyrifos decision] . . . they just said ‘nope.’” Many agency efforts to overturn or delay rules are now being contested in the courts, where careful years-long accumulation of scientific studies and public commentary have mitigated some of Pruitt's impact.³² But other major shifts in policy and practice promise to hamper the EPA's ongoing and future pursuit of established health and environmental protections and corrode its ability

to respond to new problems, for example:

- A budget cut of 31% proposed by the Trump White House for fiscal year 2018, the most for any major federal agency. Despite House and Senate restoration of some funds, a 10% cut is likely for this fiscal year.
- A proposed 25% staffing reduction for fiscal year 2018. The agency has already instituted a voluntary buyout that has brought its workforce down to a size not seen since the Reagan administration.³³
- Curbs on enforcement, as indicated by a 60% drop in civil penalties in Pruitt's first 6 months.³⁴
- Prioritizing of regulatory rollbacks, for example, through a careful screening of public comments on existing rules for industry requests, followed by diversion of staff time into addressing these requests.³⁵
- Alteration of agency Web sites to remove discussions of climate change.³⁶
- Internal efforts to marginalize, rein in, and demoralize career staff.

Insights on Presidential Transitions

Presidential transitions normally introduce uncertainties in the size, composition, and capacity of federal agencies such as the EPA. Yet the transition under Trump has struck many interviewees as particularly disruptive and alienating. For those who remembered the shift to Reagan, the current transition seemed equally bad, if not worse. One interviewee was struck by Trump's and Pruitt's antagonism as early as February 2017: “They're starting out with there's you and [there's] us.” In late April and early May, some veteran

interviewees' appraisals had turned more dire, even apocalyptic: “At bottom, they're basically trying to destroy the place” and “I think the plan is to get rid of the EPA.”

Although Gorsuch was able to reduce the EPA's budget by only 21% and its staff by 26% over 2 years, Trump and Pruitt in their first full fiscal year have sought as much and more. For EPA career employees, the message sent by the Trump–Pruitt fiscal year 2018 budget seemed not just financial but personal: their work was expendable. This and other top-down pressures have led “disheartened” agency staff to resign “in droves.”³⁷

Our interviews indicate that the drop in the agency's enforcement activities, already documented by a dramatic fall in civil penalties, is likely to continue. Political appointees to the Office of Enforcement, like others in the EPA, have proceeded slowly, but Pruitt's office asserted control early on by demanding the Office of Enforcement sign off on all “regulatory enforcement efforts, permits, agreement etc., no matter how routine.” The resulting backlogs inaugurated a long “period of paralysis,” even as the review of so many existing rules inhibited EPA inspectors from “target[ing] a whole bunch of facilities subject to [these] regulations and . . . taking actions.” And with the agency's environmental justice activities now folded into a wing of the administrator's office to “expedit[e] federal infrastructure projects and streamlin[e] permitting processes,” already-marginalized communities are particularly vulnerable.³⁸

Interviewees in divisions and offices across the agency reported self-policing, observing how colleagues alter their actions

to align with new leadership. Others, preparing for the anticipated cuts, were “training staff to do stuff contractors are doing, ramping down, trying to keep money in the bank to keep us going operationally.” A few overt protests have erupted among EPA employees, often led by their unions.³⁹ Other frustrated staff have resigned, sometimes in vocal protest.⁴⁰ The most common response, at least among our interviewees still at the agency, has been a muted, steady determination to stay at their jobs and pursue an agency mission they quietly see as at odds with that of their new bosses. Indeed, our interviews suggest that the size of such agencies as the EPA may present challenges for regulatory capture, especially when a new path set by leadership clashes so starkly with that long followed by its rank and file.

And yet, our interviewees roundly conclude that the current EPA faces a present and future more challenging than any other period in its 47-year history. Employees across EPA regions and programmatic activities share this perception, and historical comparison supports it. Whereas today’s closest historical counterpart—the Reagan–Gorsuch era—faced hearings and opposition from a Democratic House of Representatives, Pruitt and Trump currently have the structural advantage of a Republican Congress. As one veteran from the Reagan years reflected, by the time Pruitt and the new political leadership are done with the agency, it will have become “a much smaller and probably much more passive operation than what you’ve got now”—an agency, in other words, more easily circumvented or even captured by those it should regulate.

CONCLUSIONS

Scholars, policymakers, and activists have long questioned the degree of corporate influence at the EPA. Our study demonstrates a decisive shift to the overt and systematic influence of regulated industries in the first year of the Trump administration. This shift was noticeable within the first few months of that administration and includes a long list of political appointees with ties to regulated industries; a string of executive orders by Trump with the aim of dismantling health and environmental regulations; the rhetoric, actions, and secrecy of Pruitt; deep and disabling proposed budget cuts; and the steep decline in EPA career employees’ morale. Still, although we document a clear shift to industry special interests, our evidence for Carpenter and Moss’s third criterion for regulatory capture, “causal and intentional activity by industry,” remains associational and circumstantial and in need of further research.

Part of our difficulty in meeting this last standard of proof for regulatory capture is that we are studying an agency whose transformation is still ongoing, with limited access to documents and upper-level participants that could illuminate the intentions or precise roles of regulated industries in EPA decision-making. Pruitt’s secrecy and demonstrated political savvy—by contrast with early Reagan appointees—may well stymie documentation even if capture proceeds. Moreover, “causal and intentional activity by industry” may well have become more difficult to document in a time when corporate giving goes undisclosed and corporate-funded think tanks work to promote the idea that industry special interests are in the public interest. For all these reasons, missing proofs for

“causal and intentional activity by industry” should not impede scholarly reporting and analysis of the larger patterns taking shape and the considerable health and environmental impacts they will likely bring.

Although currently available evidence cannot prove regulatory capture, it does show an ambitious, intensifying movement to cripple the EPA’s capacity to confront polluting industries and promote public and environmental health; indeed, this capacity has already been seriously undermined. Health consequences will likely fall hardest on vulnerable social groups, such as low-income communities, farmworkers, and first responders. Many more health consequences for all lie just over the horizon, especially if regulatory capture becomes more pronounced—whether or not such capture becomes unequivocally provable. **AJPH**

CONTRIBUTORS

L. Dillon conducted and coordinated the research and writing of this article. L. Dillon, C. Sellers, M. Sullivan, J. Harrison, and S. Johns conducted interviews. C. Sellers coordinates EDGI’s larger interview project, conducted research and writing, and is the lead author of “EPA Under Siege.” V. Underhill, N. Shapiro, J. Liss Ohayon, P. Brown, M. Sullivan, and S. Wylie contributed to research and writing. J. Harrison contributed to research design. All authors, including authors in the writing group, contributed to the research and writing of “EPA Under Siege.”

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HUMAN PARTICIPANT PROTECTION

This study was approved by the institutional review boards of Northeastern University and Stony Brook University.

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