

# FISCAL YEAR 2020 EPA BUDGET

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## HEARING

BEFORE THE

SUBCOMMITTEE ON ENVIRONMENT AND CLIMATE  
CHANGE

OF THE

COMMITTEE ON ENERGY AND  
COMMERCE

HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

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APRIL 9, 2019

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## FISCAL YEAR 2020 EPA BUDGET

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TUESDAY, APRIL 9, 2019

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON ENVIRONMENT AND CLIMATE CHANGE,  
COMMITTEE ON ENERGY AND COMMERCE,  
*Washington, DC.*

The subcommittee met, pursuant to call, at 10:01 a.m., in the John D. Dingell Room 2123 Rayburn House Office Building, Hon. Paul Tonko (chairman of the subcommittee) presiding.

Members present: Representatives Tonko, Clarke, Peters, Barragán, Blunt Rochester, Soto, DeGette, Matsui, McNerney, Ruiz, Dingell, Pallone (ex officio), Shimkus (subcommittee ranking member), Rodgers, McKinley, Johnson, Long, Flores, Carter, Duncan, and Walden (ex officio).

Also present: Representatives Sarbanes, Loeb sack, and O'Halleran.

Staff present: Jacqueline Cohen, Chief Environment Counsel; Adam Fischer, Policy Analyst; Caitlin Haberman, Professional Staff Member; Rick Kessler, Senior Advisor and Staff Directory, Energy and Environment; Brendan Larkin, Policy Coordinator; Dustin J. Maghamfar, Air and Climate Counsel; Teresa Williams, Energy Fellow; Mike Bloomquist, Minority Staff Director; Adam Buckalew, Minority Director of Coalitions and Deputy Chief Counsel, Health; Jerry Couri, Minority Deputy Chief Counsel, Environment & Climate Change; Margaret Tucker Fogarty, Minority Staff Assistant; Ryan Long, Minority Deputy Staff Director; Mary Martin, Minority Chief Counsel, Energy & Environment & Climate Change; Brandon Mooney, Minority Deputy Chief Counsel, Energy; James Paluskiewicz, Minority Chief Counsel, Health; and Peter Spencer, Minority Senior Professional Staff Member, Environment & Climate Change.

Mr. TONKO. The Subcommittee on Environment and Climate Change will now come to order. The Chair now recognizes himself for 5 minutes.

### OPENING STATEMENT OF HON. PAUL TONKO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

This morning we welcome EPA Administrator Wheeler to the subcommittee to discuss the President's proposed fiscal year 2020 budget for the Agency. Mr. Wheeler, thank you for being here.

When your predecessor last testified, we were tough but, in my opinion, fair given his record. While I am relieved that you have not continued his pattern of indiscretions and ethical violations, I do have serious concerns about the course this Agency, the EPA,

has plotted under your leadership, and I believe my colleagues on this side of the dais will have questions and disagreements on policies your Agency has been putting forth.

The President as we all know has proposed a 31 percent cut to EPA's budget from last year's levels. The House will certainly reject this budget which would undermine the Agency's ability to fulfill its basic mission that being of protecting Americans' health and our environment.

I am also concerned and confused that the President's proposal includes significant reductions to programs that the administration publicly claims are top priorities. For example, Administrator Wheeler has called unsafe drinking water the greatest environmental threat, but the budget fails to reflect that sentiment. Bipartisan legislation that originated in this committee last year reauthorized funding for the Drinking Water State Revolving Fund at some \$1.3 billion in fiscal year 2020, but President Trump's request is far less than even last year's level.

The committee has recognized the need to protect our drinking water. With that in mind, I hope to receive updates on the lead service line replacement grant program, the Lead and Copper Rule revision rulemaking which was expected in February, and the regulatory determination for PFAS which your Agency has said will happen this year. EPA is not acting urgently or comprehensively enough to address serious risks to Americans that go beyond our drinking water. Administrative actions have moved through the Agency that will undermine protections for clean air and chemical safety, but perhaps the clearest example is the Agency's climate change agenda. The administration has sought to undo modest and achievable climate protections including gutting the Clean Power Plan and vehicle emission standards. The Administrator's recent remark that climate is not a very urgent threat is not supported by science and ignores the countless families losing their homes, to hurricanes, to flooding, and to wildfires.

We are spending billions of dollars each year responding to natural disasters, and we know that climate pollution emitted today will stay in the atmosphere for decades. There is no excuse for sitting on our hands. We need to be doing much more to rein in emissions, and right now there are meaningful and noncontroversial steps EPA could take on this front.

One easy example is to strengthen the popular, consumer-friendly Energy Star program. It is my understanding that Mr. Wheeler has not been directly involved with this program, but I have been informed that actual spending on the program is significantly less than what Congress has directed in recent years. That is not how this is supposed to work. This program is critically important to America's consumers and manufacturers, so I hope this concern will be raised with the appropriate people at EPA. Congress does expect our spending directions to be followed.

In addition to advancing the mission of the Agency to safeguard public health, I also believe the Administrator has a responsibility to protect the health of the institution and yet we continue to see employees leave including engineers and scientists with decades of experience and knowledge. These dedicated public servants are being replaced at much lower rates.



We are seeing a lax approach to enforcement of existing laws. Enforcement actions against polluters have reached a 25-year low under this administration. The Agency has stressed allowing polluters to self-report violations all while conducting fewer inspections to catch them if they are breaking the law. That is not just taking the cop off the beat, it is asking the lawbreakers to come down to the station at their own convenience.

We are also seeing a systematic devaluing of science by the Agency's leadership. Robust science was included as a major goal in the budget, but science funding was recommended for a 45 percent proposed cut. When EPA ignores science in its decision-making, we are essentially ensuring the Americans will be put in unnecessary danger. Americans will get sicker and they will die sooner. It is critical that public health rules be grounded in robust science, but instead we are witnessing the continued dismissal, politicization, and suppression of science at the Agency.

Finally, more must be done to improve transparency. When we ask for documents, or urge EPA to be more transparent, or responsive, we are not trying to set up a "gotcha". We do it because it is our job to conduct oversight of the Agency on behalf of the American people; the people we are all charged with serving and the people this Agency is charged with protecting. I hope this morning that Administrator Wheeler, you will renew your commitment to deliver thorough and timely responses to our requests.

Mr. Wheeler, again thank you for joining us. I look forward to your testimony.

[The prepared statement of Mr. Tonko follows:]

#### PREPARED STATEMENT OF HON. PAUL TONKO

This morning we welcome EPA Administrator Wheeler to the Environment and Climate Change Subcommittee to discuss the President's proposed Fiscal Year 2020 budget for the agency. Mr. Wheeler, thank you for being here.

When your predecessor last testified, we were tough but, in my opinion, fair given his record.

While I am relieved that you have not continued his pattern of indiscretions and ethical violations, I do have serious concerns about the course this agency has plotted under your leadership. And I believe my colleagues on this side of the dais will have questions and disagreements on policies your agency has been putting forth. The President has proposed a 31% cut to EPA's budget from last year's levels.

The House will certainly reject this budget, which would undermine the agency's ability to fulfill its basic mission of protecting Americans' health and our environment.

I am also concerned and confused that the President's proposal includes significant reductions to programs that the Administration publicly claims are top priorities.

For example, Administrator Wheeler has called unsafe drinking water the greatest environmental threat, but the budget fails to reflect that sentiment.

Bipartisan legislation that originated in this Committee last year reauthorized funding for the Drinking Water State Revolving Fund at \$1.3 billion in FY20. But President Trump's request is far less than even last year's level.

The committee has recognized the need to protect our drinking water. With that in mind, I hope to receive updates on the lead service line replacement grant program, a Lead and Copper Rule revision rulemaking, which was expected in February, and the regulatory determination for PFAS, which your agency has said will happen this year.

EPA is not acting urgently or comprehensively enough to address serious risks to Americans that go beyond our drinking water. Administrative actions have moved through the agency that will directly undermine protections for clean air and chemical safety. But perhaps the clearest example is the agency's climate change agenda.

The Administration has sought to undo modest and achievable climate protections including gutting the Clean Power Plan and vehicle emission standards. The Administrator's recent remark that climate is not a very urgent threat is not supported by science, and ignores the countless families losing their homes to hurricanes, flooding and wildfires. We are spending billions of dollars each year responding to natural disasters, and we know that climate pollution emitted today will stay in the atmosphere for decades.

There is no excuse for sitting on our hands. We need to be doing much more to reign in emissions, and right now.

There are many meaningful and noncontroversial steps EPA could take on this front. One easy example is to strengthen the popular, consumer-friendly Energy Star program.

It is my understanding that Mr. Wheeler has not been directly involved with this program, but I am informed that actual spending on the program is significantly less than what Congress has directed in recent years. That's not how this is supposed to work.

This program is critically important to American consumers and manufacturers, so I hope this concern will be raised with the appropriate people at EPA. Congress does expect our spending directions to be followed.

In addition to advancing the mission of the agency to safeguard public health, I also believe the Administrator has a responsibility to protect the health of the institution.

And yet we continue to see employees leave—including engineers and scientists with decades of experience and knowledge. These dedicated public servants are being replaced at much lower rates.

We are seeing a lax approach to enforcement of existing laws. Enforcement actions against polluters have reached a 25-year low under this Administration. The agency has stressed allowing polluters to self-report violations, all while conducting fewer inspections to catch them if they are breaking the law. That's not just taking the cop off the beat, it's asking the lawbreakers to come down to the station at their own convenience.

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When EPA ignores science in its decision-making, we are essentially ensuring that Americans will be put in unnecessary danger. Americans will get sicker, and they will die sooner. It is critical that public health rules be grounded in robust science. But instead, we are witnessing the continued dismissal, politicization, and suppression of science at the agency.

Finally, more must be done to improve transparency. When we ask for documents, or urge EPA to be more transparent, or responsive, we are not trying to set up a "gotcha." We do it because it is our job to conduct oversight of the agency on behalf of the American people, "the people" we are all charged with serving, and the people this agency is charged with protecting.

I hope this morning that Administrator Wheeler will renew and honor his commitment to deliver thorough and timely responses to our requests. Mr. Wheeler, thank you again for joining us. I look forward to your testimony.

Mr. TONKO. With that I now recognize Mr. Shimkus, our Republican leader for the Subcommittee on Environment and Climate Change, for 5 minutes for his opening statement.

#### **OPENING STATEMENT OF HON. JOHN SHIMKUS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS**

Mr. SHIMKUS. Thank you, Mr. Chairman. I want to join you in welcoming Administrator Wheeler before our committee today to discuss the President's proposed budget for fiscal year 2020 for the Environmental Protection Agency. We appreciate you being here today, Administrator, and I look forward to our discussions.

This also just going off script here, it is good to see behind you Ryan Jackson. For those on the committee who were around during the TSCA legislation, Ryan was our point of contact with Senator Inhofe. I will be asking questions on that, so maybe, Administrator, you want to talk to Ryan, find out what our intent was and what

we were trying to do. But Ryan it is great to see you again, so thanks.

Mr. Chairman, this Congress is not the first time that I have been the lead Republican on this subcommittee or some version of it. Some of you may know this, but I was also lead Republican on this subcommittee in the 110th Congress. That Congress followed 12 years of Republican control of the House and a new Democrat majority was eager to bring the Republican-run EPA to criticize their budget proposal because it wasn't as robust as the majority felt as necessary.

I left that hearing that day with a couple of thoughts in mind. First, the Constitution gives Congress the sole authority to raise and spend revenue, so when Congress examines administration budget requests as we are today, we cannot divorce ourselves and our decisions from that discussion. Speaker Pelosi often says, "show me your budget, and I will show you our values," and I think that is true. I am glad we have a budget proposal from the EPA to warrant today's hearing, as I understand it is unlikely that the House will have an opportunity to vote on a budget proposal of our own this year.

My second thought from the 2010 hearing is that we need to know that we are getting a good return on our investment in environmental protection for the billions we are giving the Environmental Protection Agency to spend. There are lots of worthy ideas and programs that the EPA could address, but does it make the most sense to have the EPA be the one to do everything all the time? We should not advocate for more funding if all of it is buying us bureaucracy regulatory confusion with other agencies or woke-sounding programs that don't really improve public health and the environment.

Finally, and to tie both points together, the money is not the end-all/be-all when it comes to an agency's success. More money does not necessarily make a person care about their environment. There are other considerations including: fidelity to the laws Americans ask us to pass, stewardship of the Agency to ensure it is doing the best it can with what it has, concrete metrics that can demonstrate progress is being made, and responsiveness to the environmental and public health concerns of the American people.

Before I yield back my time, Mr. Chairman, I do want to thank Administrator Wheeler for some of his recent comments regarding safe drinking water. As our colleagues on this subcommittee know, improvements to and reauthorization of the Safe Drinking Water Act was a bipartisan priority and a success of the last Congress. I applaud you, Administrator, for recognizing that access to safe drinking water is the most imminent environmental threat we face globally.

Again, welcome, Administrator Wheeler, and I look forward to asking you questions later this morning. I thank the chairman for yielding me this time and for holding this important hearing, and with that seeing no one else wanting my remainder of the time, I yield back.

[The prepared statement of Mr. Shimkus follow:]

## PREPARED STATEMENT OF HON. JOHN SHIMKUS

Thank you, Mr. Chairman.

I want to join you in welcoming Administrator Wheeler before our committee today to discuss the President's proposed budget for fiscal year 2020 for the Environmental Protection Agency. We appreciate you being here today, Administrator, and look forward to our discussion.

Mr. Chairman, this Congress is not the first time that I have been the Lead Republican on this subcommittee or some version of it. Some of you may know this, but I was also the Lead Republican on this subcommittee in the 110th Congress. That Congress followed twelve years of Republican control of the House, and the new Democrat Majority was eager to bring in the Republican-run EPA to criticize their budget proposal because it wasn't as robust as the Majority felt was necessary. I left that hearing that day with a couple of thoughts in mind.

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Finally, and to tie both points together, money is not the end all be all when it comes to an agency's success. More money does not necessarily make a person care about their environment. There are other considerations, including fidelity to the laws Americans ask us to pass, stewardship of the Agency to ensure it is doing the best it can with what it has, concrete metrics that can demonstrate progress is being made, and responsiveness to the environmental and public health concerns of the American people.

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Again, welcome, Administrator Wheeler, and I look forward to asking you questions later this morning.

I thank the Chairman for yielding me this time and for holding this important hearing.

Mr. TONKO. The gentleman yields back. The Chair now recognizes Representative Pallone, chairman of the full committee, for 5 minutes for his opening statement.

**OPENING STATEMENT OF HON. FRANK PALLONE, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY**

Mr. PALLONE. Thank you, Mr. Chairman.

A budget is an expression of priorities and it should be clear to anyone reading the EPA budget proposal that President Trump does not prioritize public health or the environment. The budget would cut EPA funding by 31 percent, more than any other Cabinet-level agency. It would eliminate important programs like beach grants to help coastal communities like mine ensure that the water is safe to swim in. It also fails to deliver on many of the promises

the Trump administration has made on dangerous toxins like lead and PFAS.

And today we will have an opportunity to measure EPA's progress over the past year, since the subcommittee heard from then-Administrator Pruitt on EPA's budget last year. That hearing last year showed bipartisan concern about Administrator Pruitt's scandals, Agency mismanagement and repeated attacks on public health. And when Administrator Pruitt resigned, there was hope on both sides of the aisle that the situation at EPA would improve.

And I was pleased when Mr. Wheeler, then the Acting Administrator, personally committed to make staff available to the committee for briefings and to testify. Unfortunately, when I look at the past year, it does not seem that EPA has come very far. In fact, on some issues it seems the Agency has actually moved backward. With Administrator Wheeler at the helm, EPA has continued to attack science, transparency, and public health, and the Agency is working to abandon action on climate change, and air quality, in my opinion.

EPA scrapped the sensible carbon reduction requirements in the Clean Power Plan and replaced it with a scam that is more costly and less protective than no rule at all. EPA also walked away from negotiations with California over the Trump's administration's rollback of clean air standards. And Administrator Wheeler publicly vowed to revoke California's waiver to implement stronger vehicle pollution control requirements.

And in a move that I think makes absolutely no sense, EPA took the first step on a path to sabotage the successful mercury and air toxic standards. These standards protect communities from dangerous mercury and hazardous air pollution that spew from coal and oil-burning power plants. This action is so bad that even the power industry opposed it.

So I am very concerned that EPA's implementation also of the revised Toxic Substances Control Act, or TSCA, is leaving workers, children, low-income communities, communities of color, and the general public at an unacceptable risk. The regulation of asbestos is still heading in the wrong direction. EPA is still allowing new uses of asbestos under the new chemical program, and still ignoring legacy asbestos exposures, and its risk assessment. And last month, the EPA finalized a rule on methylene chloride that fell far short of what is needed to protect public health and what was promised to this committee and me. EPA is also still working to remove important protections in the Risk Management Planning Program that might have prevented or reduced the impacts of two recent fires in the Houston area.

So, I also remain concerned that a lot of troubling activities that began on Administrator Pruitt's watch are still happening. EPA is still hiring industry lobbyists as regulators and that raises red flags on ethics issues. It is also still shortening comment periods, hiding science from the American public, and refusing to provide requests to documents to Congress. And Members of both parties in both the House and the Senate are unable to get answers from EPA and the administration, and this is unacceptable because Congress must be able to conduct oversight. The Agency's refusal to

provide information also creates the distinct impression that the EPA has something to hide.

So the track record of the EPA is abysmal, in my opinion. I am hoping, Mr. Wheeler, that we can look forward, well, I look forward to your testimony and hope that we can begin some changes and answers to this committee's questions today. And with that unless someone wants my time I yield back, Mr. Chairman.

[The prepared statement of Mr. Pallone follows:]

#### PREPARED STATEMENT OF HON. FRANK PALLONE, JR.

A budget is an expression of priorities, and it should be clear to anyone reading the EPA budget proposal that President Trump does not prioritize public health or the environment.

The budget would cut EPA funding by 31 percent—more than any other cabinet level agency. It would eliminate important programs like Beach Grants that help coastal communities like mine ensure that the water is safe to swim in. It also fails to deliver on many of the promises the Administration has made on dangerous toxins like lead and PFAS.

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The agency is working to abandon action on climate change and air quality. EPA scrapped the sensible carbon reduction requirements in the Clean Power Plan, and replaced it with a scam that is more costly and less protective than no rule at all. EPA also walked away from negotiations with California over the Trump Administration's rollback of clean car standards, and Administrator Wheeler publicly vowed to revoke California's waiver to implement stronger vehicle pollution control requirements.

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It is also still shortening comment periods, hiding science from the American public, and refusing to provide requested documents to Congress.

Members of both parties in both the House and the Senate are unable to get answers from EPA and this Administration. This is simply unacceptable because Congress must be able to conduct oversight. The agency's refusal to provide this information also, creates the distinct impression that this EPA has something to hide.

The track record of the EPA over the last two years is abysmal. So, Mr. Administrator, I look forward to your testimony, and hope that you will begin answering this Committee's questions today.

Mr. TONKO. Seeing no one, the gentleman yields back.

In the absence of the Republican leader of the full committee, Mr. Walden, the Chair will recognize the gentleman from Ohio, Mr. Johnson, for 5 minutes.

Mr. JOHNSON. Thank you, Mr. Chairman. I appreciate the recognition and I am sure if Chairman Walden was here, he would offer these words himself.

But I would like to welcome our fellow Ohioan and EPA Administrator Andrew Wheeler this morning. Because of Mr. Wheeler's years of experience as a special assistant at the Pollution Prevention and Toxics Office, and as a majority staff director, and counsel at Senate EPW, and through his work with stakeholders affected by EPA regulations, I know that EPA's mission and objectives are in good hands.

It is possible to have both a vibrant and growing economy along with sound policies that protect our environment. These goals are not mutually exclusive, and I know Administrator Wheeler understands that especially as the Agency works on critical drinking water issues, continued TSCA implementation and cleaning up, and redeveloping contaminated lands while simultaneously seeking to reduce unnecessary regulatory burdens for our small businesses and job creators.

So, Mr. Wheeler, thank you for being here today and for your testimony on EPA's fiscal year 2020 budget. These are really important issues and I look forward to the discussion. With that unless someone else wants some time, Mr. Chairman, I yield back.

Mr. TONKO. The gentleman yields back. The Chair would like to remind members that pursuant to committee rules, all Members' written opening statements shall be made part of the record.

I now have the pleasure of introducing our witness for today's hearing, the Honorable Andrew Wheeler, Administrator of the United States Environmental Protection Agency. Before we begin, I would like to explain the lighting system. In front of you, Administrator, are a series of lights. The light will initially be green at the start of your opening statement. The light will turn yellow when you have one-minute remaining. Please begin to wrap up your testimony at that point. The light will turn red when your time expires. And at this time, the Chair will recognize Administrator Wheeler for 5 minutes to provide his opening statement. Welcome, Mr. Wheeler.

#### **STATEMENT OF ANDREW R. WHEELER**

Mr. WHEELER. Thank you. Good morning, Chairman Tonko, Ranking Member Shimkus, and members of the subcommittee. I am joined by Holly Greaves, EPA's CFO, and we are here today to discuss EPA's proposed 2020 budget. The budget resolution ensures that the Agency can continue President Trump's bold agenda and the tremendous progress we have made over the past 2 years.

The U.S. is a global leader in clean air and access to safe drinking water, and we are cleaning up contaminated lands at the fastest pace in over a decade. At the same time, EPA has finalized 38 deregulatory actions, saving Americans more than \$3 billion in regulatory costs, and we have an additional 39 actions in development proposed to save billions more. The Trump administration is prov-

ing that environmental protection and historic economic growth can go hand in hand. My testimony will highlight how the President's budget will continue this progress.

I believe that water issues from drinking water to marine litter to infrastructure are the largest and most immediate environmental issue facing the world today. The budget request provides critical support for water quality protection. One challenge we face is lead exposure. Through the new Federal lead action plan, EPA is coordinating with our Federal counterparts to reduce childhood lead exposure. Last week we issued a status report to hold ourselves accountable to the public and clearly communicate the steps we are taking to implement the action plan.

To bolster these efforts, the budget proposed \$50 million to establish a new Healthy Schools Grant Program to reduce exposure to lead and other toxins in schools. We are also moving forward to update the Lead and Copper Rule for the first time in over 2 decades. Our proposal would ensure that we address the most corrosive pipes in the most at-risk communities first.

Another challenge is addressing potential sources of contamination. In February, EPA released its PFAS Action Plan, the most comprehensive, multimedia research and action plan ever issued by the Agency to address an emerging chemical of concern. On the marine litter issue, billions of pounds of waste enter our oceans each year, harming marine life and coastal economies. EPA's Trash Free Waters program is stepping up to help the international community capture marine litter or prevent it from reaching the ocean.

On infrastructure, the President's budget includes a 25 percent increase to WIFIA from last year's request. This new program is already producing tremendous results. Today, EPA has issued eight WIFIA loans totaling more than \$2 billion in Federal credit assistance. I was in Miami-Dade County on Friday to announce a \$99 billion WIFIA loan to help protect Florida's beaches and water resources. We recently announced our third round of funding which could support \$12 billion in water infrastructure projects and create more than 180,000 jobs.

To expand on these efforts, President Trump signed America's Water Infrastructure Act or AWIA. While funding for AWIA was not included in fiscal year 2019 appropriations that Congress enacted, EPA does propose funding of 83 million in this budget request to begin implementation of this important new law. The budget request also includes approximately \$2 billion in Federal dollars towards the two SRFs. The combination of Federal grants, State matches, repayments, and interest all flow back into each revolving fund creating \$80 billion in the nationwide fund as of this year. Regarding the Great Lakes Restoration Initiative, as the President stated, this is a unique and important program and I fully support his decision as it relates to funding the program.

When it comes to reducing air pollution, we are moving forward with common-sense reforms that will help more communities reach attainment of the NAAQS standards. For example, last week we announced that the Cleveland area is now meeting the standards for particulate matter. The cleanup of contaminated lands also plays a crucial role in revitalizing communities throughout the country. In fiscal year 2018, EPA deleted all or part of 22 sites



from the National Priorities List, the largest number of deletions in one year since fiscal year 2005.

Our next responsibility is ensuring that chemicals used in commerce and sold in the marketplace are safe for public use. I am proud to report that EPA continues to meet the major statutory deadlines of the amended TSCA. Earlier this month, we finalized a ban on retail sales of methylene chloride for consumer paint and coating removal, the first risk management action under Section 10 of amended TSCA.

To ensure efforts are effective and durable, EPA has a healthy and robust enforcement program. At one end of the spectrum, we are increasing compliance through self-audits which are often the quickest way to correct environmental harms. At the other end of the spectrum, we are deterring noncompliance by increasing the number of new criminal cases, reversing a downward trend that began in 2011. This is the type of leadership that gives confidence to the public, the regulated community, and our allies around the globe.

Thank you for the opportunity to speak with you today and I look forward to answering your questions.

[The prepared statement of Mr. Wheeler follows:]

**TESTIMONY OF  
Andrew R. Wheeler**

**ADMINISTRATOR  
U.S. ENVIRONMENTAL PROTECTION AGENCY**

**BEFORE THE**

**SUBCOMMITTEE ON ENVIRONMENT AND CLIMATE CHANGE  
U.S. HOUSE COMMITTEE ON ENERGY AND COMMERCE**

**April 9, 2019**

Good morning, Chairman Tonko, Ranking Member Shimkus, and members of the subcommittee. I am joined by Holly Greaves, EPA's Chief Financial Officer, and we are here today to discuss the Environmental Protection Agency's (EPA's) proposed FY 2020 budget, which supports the goals and objectives in the *FY 2018-FY 2022 EPA Strategic Plan*.

The FY 2020 Budget Request reflects President Trump's vision of responsible stewardship of taxpayer dollars and critical investments in the nation's health, safety, and long-term prosperity. The Budget supports ongoing work at EPA to reduce unnecessary regulatory burdens while investing in areas that demand greater attention, such as protecting children from lead exposure and other environmental harms through a new Healthy Schools Grant Program and providing funding to begin implementing the America's Water Infrastructure Act (AWIA).

The proposed Budget ensures that the Agency can continue the President's bold agenda and the tremendous progress we have made over the past two years. The U.S. is a global leader with respect to clean air and access to safe drinking water, and we are cleaning up contaminated lands at the fastest pace in over a decade. At the same time, EPA has supported the President's record economic gains by finalizing 38 deregulatory actions and saving Americans more than \$3 billion in regulatory costs. We have an additional 39 actions in development projected to save billions more in regulatory costs. The Trump Administration is proving that environmental protection and historic economic growth can go hand-in-hand.

In my testimony, I will highlight how the President's budget would continue this progress.

I believe that water issues, from drinking water to marine litter to infrastructure, are the largest and most immediate environmental and public health issues affecting the world right now. The Budget Request provides critical support in the area of water quality protection.

Right now, over two billion people worldwide lack access to safe drinking water and proper sanitation, leading to anywhere from one to three million deaths every year. And those most likely to die from a lack of safe drinking water are young children. According to the United Nations, nearly a thousand children die every day due to preventable water and sanitation-related diseases. We believe that these children deserve our immediate attention, and we are elevating our work with our federal partners, like USAID, to improve global water security.

Here in the U.S., we have made tremendous progress on this front. In the 1970s, more than 40 percent of our nation's drinking water systems failed to meet even the most basic health standards. Today, over 92 percent of community water systems meet all health-based standards, all the time.

We still face challenges, however. Our nation's children are particularly vulnerable to the health impacts of unsafe drinking water, especially lead exposure. Through the new *Federal Action Plan to Reduce Childhood Lead Exposures and Associated Health Impacts*, EPA is coordinating with our federal counterparts to reduce exposure to lead where children live, learn, and play. Last week, we issued a status report to hold ourselves accountable to the public and clearly communicate the steps we are taking to implement the Action Plan.

To bolster these efforts, the FY 2020 Budget proposes \$50 million to establish a new Healthy Schools Grant Program. This flexible grant program will help our state and local partners, including school systems and administrators, minimize asthma triggers, reduce exposure to lead or other toxics, and ensure children have access to clean and safe learning environments. This new program is a top priority for the Agency, and we look forward to partnering with Congress to advance this effort.

We are also moving forward to update the Lead and Copper rule for the first time in over two decades. We will get this rule out in the summer of 2019, and we will get it done right. Our proposal would ensure that we address the most corrosive pipes in the most at-risk communities first. These communities can't afford to wait five, ten, or twenty years to have their lead pipes replaced. EPA staff is currently monitoring and mapping the location of the highest-risk lead pipes so we can focus our work on the most impacted areas of the country first.

The other dimension of our water challenges is our ability to identify and address potential sources of drinking water contamination. Source protection can reduce the need for additional drinking water treatment and avoid the associated costs. EPA is stepping up its leadership on this front as well.

In February, EPA released its Per- and Polyfluoroalkyl Substances (PFAS) Action Plan. We utilized each of our program offices to produce the most comprehensive, multi-media research and action plan ever issued by the Agency to address an emerging chemical of concern. And for the first time ever, we held simultaneous press conferences in all ten of our Regional Offices to roll out the plan. This will be our approach moving forward on issues of emerging concern.

On the marine litter issue, billions of pounds of waste enter our oceans each year, harming marine life and coastal economies. Through programs like Trash Free Waters, EPA is helping foreign governments and organizations capture marine litter or prevent it from reaching the ocean in the first place. When I travel to the G7 in France in May and the G20 in Japan in June, I will make the issue of marine litter a priority.

On infrastructure, we estimate that more than \$700 billion will be needed to upgrade water infrastructure in the U.S. alone over the next 20 years. The President understands that modernizing our nation's aging infrastructure is critical to public health and prosperity. At EPA, this means that we will continue to make investments in water infrastructure that not only safeguard our nation's precious water resources but also create well-paying jobs and ensure taxpayer dollars achieve the maximum return on investment.

The FY 2020 budget includes a 25 percent increase to the Water Infrastructure Finance and Innovation Act (WIFIA) program from last year's request. The \$25 million, including \$20 million in credit subsidy, provided for WIFIA could deliver more than \$2 billion in direct credit assistance, which, when combined with other funding resources, could spur over \$4 billion in total infrastructure investments.

This new program is already producing tremendous results. To date, EPA has issued eight WIFIA loans totaling more than \$2 billion in federal credit assistance. Not only will these funds improve public health for hundreds of thousands of Americans, it is also estimated these projects will create over 6,000 jobs. This is just the beginning. This past year, we invited an additional 39 projects across the nation to apply for WIFIA loans, which, when approved and combined with other funding sources, could help finance over \$10 billion dollars in water infrastructure and create up to 155,000 jobs. On top of this, we recently announced our third round of funding, which, when combined with other funding sources, could support \$12 billion dollars in water infrastructure projects and create more than 180,000 jobs.

While most water systems consistently provide safe and reliable drinking water, many small systems face their own unique challenges. To address these needs, President Trump signed the bipartisan America's Water Infrastructure Act of 2018 (AWIA) on October 23, 2018. While funding for these important new mandates was not included in the FY 2019 budget Congress recently enacted, EPA proposes funding of \$83 million in this Budget Request to begin implementation of the law, including five new grant programs. Funding AWIA would expand EPA's ability to invest in water infrastructure in even more communities across the country.

The Budget Request also includes approximately \$2 billion in federal dollars towards the two State Revolving Funds (SRFs) to assist our implementing partners in rebuilding aging water infrastructure. The combination of the federal capitalization grants provided over more than twenty years, required state match, loan repayments, and interest flows back into each state revolving fund, creating approximately \$80 billion currently revolving at the state level. This recycling of funds results in additional funding available well beyond the annual federal investment in both SRF programs. Across the SRFs, WIFIA loans, and the new AWIA programs, we are providing robust support for water infrastructure project investments.

Regarding the Great Lakes Restoration Initiative, as the President stated, this is a unique and important program. I fully support his decision as it relates to funding this program.

When it comes to reducing air pollution, we are moving forward with common-sense reforms that will help more regions throughout the nation reach attainment of the National Ambient Air Quality Standards (NAAQS).

Areas in nonattainment face a variety of consequences, including increased regulatory burdens and restrictions on infrastructure investments. The Agency is working across multiple fronts to bring these areas into attainment. We announced last week that the Cleveland area is now meeting the standards for particulate matter. We are also converting Federal Implementation Plans (FIPs) into State Implementation Plans (SIPs) and aggressively tackling the backlog of SIPs we inherited. The Agency has converted an average of almost one FIP into a SIP each month since March 2017. The Trump EPA inherited a backlog of more than 700 SIPs, and we've taken final action on over 400 SIPs to date.

We are also moving forward with the Cleaner Trucks Initiative. Since 2000, nitrogen oxide (NOx) emissions in the U.S. have been reduced by 52 percent. However, it is estimated that heavy-duty trucks will be responsible for one-third of NOx emissions from transportation in 2025, and it's been nearly 20 years since EPA last set NOx emissions standards for heavy-duty trucks. By working closely with states and the private sector, we will reduce NOx emissions from heavy-duty trucks, which is not required by statute or court order, but will help nonattainment areas reach attainment.

The cleanup and redevelopment of contaminated lands play a crucial role in revitalizing communities throughout the country. I'm proud to report that in Fiscal Year 2018, EPA deleted all or part of 22 sites from the National Priorities List (NPL), the largest number of deletions in one year since Fiscal Year 2005. We believe that a site on the National Priorities List should be just that – a national priority. If it has languished on the NPL for decades, then it was not a priority. We are changing that. We are in the process of cleaning up some of the nation's largest, most complex sites and returning them to productive use.

While the Agency continues to request robust funding to revitalize lands, it's important to remember that annual appropriations are just one source of funding to help facilitate the cleanup and restoration of contaminated lands. In 2018 alone, the Superfund Enforcement program secured private party commitments totaling \$613 million. Approximately 60 percent of ongoing remedial construction projects are performed by Potentially Responsible Parties. EPA's enforcement program continues to encourage private investment in the cleanup and reuse of sites.

Our next responsibility is ensuring that chemicals used in commerce and sold in the marketplace are safe for public use. I'm proud to report that EPA continues to meet the major statutory deadlines of the amended Toxic Substances Control Act (TSCA).

We've issued rules addressing the prioritization process, the risk evaluation process, and the TSCA inventory, while also developing a new fees program.

Not only that, we are well on our way to completing draft risk evaluations for the first 10 chemicals; we published a final strategy to reduce animal testing; we published a final mercury reporting rule; we released three sets of guidance regarding confidential business information; and we released an updated Chemical Substance Inventory.

We recently announced the next 20 high and 20 low existing chemicals that we will prioritize for risk evaluation. In FY 2020, the Agency will begin risk evaluations for the next round of twenty high-priority chemicals.

In terms of risk management, earlier this month, we finalized a ban on retail sales of methylene chloride for consumer paint and coating removal – the first risk management action under Section 6 of amended TSCA. After analyzing the health impacts and listening to affected families, we took action to protect retail consumers.

As for new chemicals, we are reviewing submissions consistent with the statute while increasing the transparency of our decisions. We are committed to reducing our backlog of approximately 400 new chemical submissions within six months. What EPA is accomplishing should give confidence to American consumers and certainty to the manufacturers.

To ensure that our actions are effective and durable, EPA is assisting the regulated community in attaining and maintaining compliance with environmental laws and, where necessary, punishing actors that do not comply with those laws.

At one end of the spectrum, we are increasing compliance through self-audits, which are often the quickest way to correct environmental harms. At the other end of the spectrum, we are deterring non-compliance by stepping up criminal cases. We increased the number of new criminal cases in FY 2018, reversing a downward trend that began in 2011.

In Fiscal Year 2018, EPA enforcement actions required the treatment, disposal, or elimination of 809 million pounds of pollutants and waste – almost twice as much compared to 2017. And in January, EPA and the Department of Justice announced a \$490 million settlement with Fiat Chrysler for cheating U.S. emissions standards. We will vigorously enforce our nation's environmental laws, and we will ensure that hardworking Americans that follow the law and play by the rules do not suffer a competitive disadvantage.

Within the Agency itself, we are improving how efficiently and effectively we carry out our core responsibilities. In FY 2018, the Agency introduced the EPA Lean Management System (ELMS), which has enhanced the Agency's performance management framework. For the first time, EPA is reviewing its performance via new measures and taking corrective action on a monthly, rather than annual, basis. We created over 600 performance measures across all national programs and regional offices. We're already beginning to see dramatic improvements, such as reducing the backlog of new permit applications older than six months by 34 percent between June and November 2018. The deployment of ELMS will help us maximize the skill sets of EPA staff and ensure that we are agile and responsive to the needs of all Americans.

We want the public to know that when they encounter environmental threats, we will address them head on. And we want the world to know, that when they encounter environmental threats, we are ready to help. This is the type of leadership that gives confidence to the public, certainty to the regulated community, and reassurance to our allies around the globe. This is the type of leadership you can expect from



President Trump and his Administration. Thank you for the opportunity to speak with you today. I look forward to answering your questions.

Mr. TONKO. Thank you. That concludes the Administrator's opening statement. We will now move to member questions. Each Member will have 5 minutes to ask questions of our witness. And I will point out that we are going to stay very strict with the 5 minutes because I am told that the Administrator has a hard-out at 12:30, is it? So we will be very strict about the 5-minute effort. Since our witness can only be here to 12:30, we are going to—moving forward now with questions of our guest, I will start by recognizing myself for 5 minutes.

Administrator Wheeler, in the past we have spoken about the Strengthening Transparency in Regulatory Science proposed rule which is issued by your predecessor and widely criticized by the scientific community. Can you provide us an update on the status of that proposal?

Mr. WHEELER. We are still working on that. We intend to move forward with it. You know, it is important—there has been a lot of criticism. I think a lot of the criticism is from people who don't fully understand what we are doing with the proposal. I cut my teeth at EPA on the community right to know; and I believe the more information we make available to the public the more robust our regulations will be.

Mr. TONKO. So when can we expect, you know, a better, a proposal that is outlined for us?

Mr. WHEELER. Before the end of this year.

Mr. TONKO. OK. And how EPA chooses to collect and evaluate scientific research is an incredibly important step in the regulatory process including for assessing a chemical's potential risk under the TSCA law. Before your confirmation to this position, you sent a letter to Senator Carper where you committed to submit EPA's systematic review method for TSCA risk evaluations to the National Academy of Sciences for review and to make public any feedback that the Agency receives. What is the status of that National Academy review?

Mr. WHEELER. I believe we submitted some of the data so far, but it is for the first ten chemicals and those risk assessments aren't supposed to be finished until the end of this year.

Mr. TONKO. Will the Academy have complete discretion to select scope and membership of the review team?

Mr. WHEELER. I believe so. I don't believe we can even dictate to the Academy who is on the review.

Mr. TONKO. So they will have complete discretion.

Mr. WHEELER. Yes, is my understanding.

Mr. TONKO. In 2017, the Office of Research and Development developed a review report for the Office of Pesticides Programs on the epidemiology and health effects research regarding exposure to glyphosate. Why was the work not included in your public release of that research and will you release it now?

Mr. WHEELER. I am sorry. I have to get back to you on that. I am not familiar with the—

Mr. TONKO. OK, the Integrated Risk Information System or IRIS handbook was ready for release in December of 2018. Will you publicly release the IRIS handbook now?

Mr. WHEELER. I don't believe it was ready for release. I believe we are still working through the handbook. I don't believe it is ready to be released yet, but it will be released.

Mr. TONKO. When should we anticipate the——

Mr. WHEELER. I will have to get back to you on a deadline for that.

Mr. TONKO. Formaldehyde was recently designated as a high priority candidate for risk evaluation under TSCA. It has also been the subject of a long-delayed review under IRIS. What is the status of the IRIS formaldehyde assessment and will that work inform the risk evaluation process under TSCA?

Mr. WHEELER. Yes. That work will inform the risk evaluation under TSCA. At this point we are not moving forward with the IRIS review. We decided to put formaldehyde through TSCA. If you put a chemical through the TSCA program you can regulate the chemical at the end of the process. IRIS is not a regulatory mechanism.

Mr. TONKO. Well, will the IRIS assessment be released for inter-agency review and what are the plans for external scientific peer review?

Mr. WHEELER. What we did last summer was go back to all of our program offices and ask them what their high priority chemicals are for IRIS and formaldehyde did not come back as one of the high priority chemicals selected. If we were to move forward with the formaldehyde IRIS assessment it would be a minimum of 18 months and we decided that it was more important to go ahead and put formaldehyde through the TSCA program; because at the end of the day we can regulate formaldehyde under TSCA. You cannot regulate a chemical under IRIS.

Mr. TONKO. Given TSCA's requirement to make publicly available all health and safety data being used in risk evaluations, when can we expect the IRIS formaldehyde assessment to be released?

Mr. WHEELER. We are not planning on moving forward with the IRIS assessment for formaldehyde. We are moving forward under TSCA.

Mr. TONKO. Mr. Wheeler, going back to the transparency in science proposed rule, the proposal indicated that the Administrator would be empowered to grant exemptions at his discretion to address issues on a case-by-case basis. Do you have any thoughts as to how an administrator should go about granting exemptions if this proposal moves forward?

Mr. WHEELER. Well, I think if there is an important scientific study where the data is not available to the public, the Administrator should weigh whether or not it is important to move forward with that study as part of the regulatory process. And I believe that that is a decision that administrators can make on a case-by-case basis, but it is important to remember that the proposal only is for studies going forward. It is not retroactive.

Mr. TONKO. Well, I believe Mr. Pallone may ask about PV29, but we have seen EPA under your leadership keep data and reports hidden for the benefit of industry even when it was not allowable under the law in the case of PV29, all while promoting a transparency rule which scientific and medical experts say will make it

more difficult for EPA to use robust science in its rulemaking process. I urge you to release the reports I have raised, along with others which I intend to submit for the record.

With that, I yield back, and I recognize Representative Shimkus for 5 minutes.

Mr. SHIMKUS. Thank you, Mr. Chairman.

Administrator Wheeler, I want to focus my questions in two areas of interest, the substantial backlog of applications in the Toxic Substance Control Act, or TSCA new chemicals provision, and the Renewable Fuel Standard. According to the Agency's website, as of three weeks ago the number of notices awaiting completion of review since this law was enacted 34 months ago was 62 percent higher than the historical caseload of new chemical applications.

More importantly though, is that to avoid delays in getting innovative, greener, safer chemicals to the market—and I mean that is one of the benefits, we want to get safer chemicals to the market versus chemicals that may not be as safe that are in the market right now—TSCA specifically mandates completion of new chemical reviews within 90 days, but not later than 180 days.

How many of those 527 pending applications are older than 180 days?

Mr. WHEELER. Two hundred seventy at this point. It is lower than what it was. We are working to reduce the backlog. It has been within the time frames for both the new chemicals and the existing chemicals program under the new TSCA there has been some challenges, but we are processing them faster than we were a year ago.

Mr. SHIMKUS. Right. And the media asks me about this like every week, so that is why I don't think it is any surprise that I am going down this part of the questioning because the whole idea is to get this process moving. How many are older of these 527 or whatever, were older than 90 days?

Mr. WHEELER. Older than 90 days would be 110 to 120 in the over 90, but under 180.

Mr. SHIMKUS. So, are these delays an EPA labor or a legal problem?

Mr. WHEELER. It is more a labor problem at this point. We had to work through the program on how the program was going to be implemented, then during that working through the implementation phase we got the backlog. So we are trying to process the new chemicals as they come in as quickly as possible and also work on the backlog.

Mr. SHIMKUS. Right. Do you have—

Mr. WHEELER. But we are reaching out to manufacturers to let them know about the timing on a case-by-case basis.

Mr. SHIMKUS. Do you have a plan to devote resources to addressing the backlog of old, pre-manufactured notices that have been languishing for many months or years?

Mr. WHEELER. We do, and we have been, you know, and it is in part a staffing problem. Last year we hired 25 new people to work on TSCA, but at the same time we lost 25 people. So it is kind of keeping our head above water at times on staffing.

Mr. SHIMKUS. Will you try to quickly place more experienced scientists and engineers in the TSCA program to complete more timely, new chemical reviews and risk evaluations?

Mr. WHEELER. Yes.

Mr. SHIMKUS. I think that your answer preceded my question. Before my time concludes, I want to touch on the Renewable Fuel Standard. I see David Loeb sack here. I am sure he is going to direct some questions in that area also. As you know, after 2022, EPA has a great deal more flexibility to set the targets in the RFS. Has the Agency already begun to prepare for the RFS post-2022?

Mr. WHEELER. No. Right now, we are focused on the E15, the RIN price mechanism, the reset, the RVO for this year and—

Mr. SHIMKUS. You have some other issues on your plate.

Mr. WHEELER. Right.

Mr. SHIMKUS. OK.

Mr. WHEELER. We have five pending regulations on the RFS.

Mr. SHIMKUS. Well, and as you know we were dealing, trying to do something legislative, et cetera, in law that would help give you more direction.

Mr. WHEELER. That would be great.

Mr. SHIMKUS. I still think that is very, very important because this 2022 debate is real. We don't know if you will be there. We don't know if we will have a new administration. We don't know who the new EPA Administrator would be. It is kind of a roll of the dice, don't you think?

Mr. WHEELER. Yes. I think there is a lot of discussion that needs to take place between now and 2022. And while the administration, I don't believe, has an official position on RFS legislation, I do think the program could, for post-2022 would be strengthened by congressional views on this.

Mr. SHIMKUS. Do you expect the demand for biofuel would be higher, lower, or about the same? Again, I am just talking a crystal ball. Where do you think we are headed in just biofuel in the mix?

Mr. WHEELER. Post-2022, well, I mean it really depends on the use of fuel in the automobile industry. You know, I worked as a staffer on both the 2005, 2007 energy bills and at that point in time we did not project the vehicle miles traveled would be going down or the gasoline usage would be going down. We thought it would be going up. And the legislation as you remember was drafted with the expectation that we would continue to use more gasoline and that hasn't been the case with more fuel-efficient cars, electric vehicles, and natural gas-powered vehicles.

So, and there is a lot of drivers as far the fuel usage, and then by increasing like the E15 should also help increase the volumes for ethanol.

Mr. SHIMKUS. Thank you. My time has expired. Thank you, Mr. Chairman.

Mr. TONKO. You are welcome. The gentleman yields back. The Chair now recognizes the gentleman from California, Representative Peters, for 5 minutes.

Mr. PETERS. Thank you, Mr. Chairman. I want to start with two thank you's, you may not get from this side of the aisle. One is, I think, I am the only former EPA employee on the committee. I

worked in the TSCA program and though they need people, I am done with that particular phase of my career.

Mr. SHIMKUS. We could use you. I think there are some forms.

Mr. WHEELER. We could use more help.

Mr. PETERS. I also saw on their behalf I want to say I am a little concerned about the cuts in general. I think these people work very hard. They do important work and we need to support them. I also want to thank you for the loan that San Diego received, \$614 million loan for our water recycling project known as Pure Water. And connected with that though, as you pointed out that is a very important program, unfortunately you are requesting \$300 million less than the enacted level in 2019. I will just, without, we don't have time to go into that but I will just flag, I think that is the wrong way to go for such an important program that provides so much leverage to communities for environmental protection. But I did want to talk about the U.S.-Mexico Border Water Infrastructure Program or BWIP.

As you know, the City of San Diego has for decades struggled to end the continuous discharge of sewage along the border into the city from Tijuana. Millions of gallons of sewage still routinely close beaches. In fiscal year 2020, you propose eliminating resources and staff for the U.S.-Mexico Water Infrastructure Program. The program, quote, "supports the planning, design, and construction of water and wastewater treatment facilities along the border with all projects benefiting communities on the U.S. side of the border."

The EPA has identified nearly \$125 million in drinking water and wastewater infrastructure projects along the border in need of funding to protect public health and environmental impact in the United States, and yet the budget would eliminate the U.S.-Mexico border program as part of the effort to restore, to focus resources on core environmental work. Now since the program began in 1997, it has provided hundreds of thousands of U.S. households along the border adequate drinking water and wastewater infrastructure. Initially funded with \$100 million per year, however, it has been reduced over the last 20 years to less than 10 million.

Why would you say BWIP is no longer considered as part of the effort to focus resources on core environmental work?

Mr. WHEELER. Well, first of all, Congressman, thank you for the comments of San Diego and the WIFIA loan that we provided them. I think that is a good example on how we can continue to support border projects. The budget does eliminate most regional voluntary programs, but we can still address those same problems and concerns through existing programs at the Agency such as the SRF.

I am told that between with the border States—Arizona, California, New Mexico, and Texas—there are 400 million available through water infrastructure that can go towards the border through the SRF. With the WIFIA we can continue to look at new, innovative ways of funding border initiatives with the WIFIA loan program. We did ask for 25 million more than what we requested last year for WIFIA. And then we also have the new AWIA, which Congress just passed last year; where we are asking for 83 million which we believe will really help smaller communities address water problems.

So we are trying to spread our money among different programs to address water concerns——

Mr. PETERS. Right, and obviously the concern we have is that the BWIP program is focused on the border. So the SRF projects are only, the money is only going to projects in the United States. To be eligible for the BWIP funding, projects must be located within 100 kilometers or 62 miles of the U.S.-Mexico border. So are you going to do something specifically to make sure that border projects have dedicated funding from the SRF?

Mr. WHEELER. Well, again, you know, we will spend the money appropriated by Congress, if Congress does give us money for the program. But we are also working with the Department of State and other Federal agencies to determine what else we can do on the border. And my regional administrator, Mike Stoker, in California, has been down to the border numerous times and talking to our Mexican counterparts. I will be down in Mexico for the CGC, I believe. It is the Canadian, U.S., Mexican environmental administrators meeting in June and this is, or actually the end of May.

Mr. PETERS. OK.

Mr. WHEELER. This is a high priority for me when I meet with my counterparts——

Mr. PETERS. I just expressed the concern. I appreciate that too, and I appreciate the Administrator from Region 9 has been active and present. But as you know, this is unique among Federal funding programs because it is the only Federal program that can fund projects on both sides of the border with all projects benefiting communities on the United States side of the border, so I express that concern. I raise that objection and hope to be able to provide you and your administrator with specific tools for the U.S.-Mexico border by preserving the BWIP. And I yield back.

Mr. TONKO. The gentleman yields back. The Chair now recognizes the Republican leader of the full committee, the gentleman from Oregon, Representative Walden, for 5 minutes.

Mr. WALDEN. Thank you, Mr. Chairman, and thank you for having this hearing. And to the Administrator, welcome back. I know your years as a Senate staffer make you no stranger to this kind of body and we are glad to have you over here in the people's house today.

I appreciate your commitment, Mr. Administrator, this administration and its budget to three goals to the Agency's core mission, cooperative federalism, and rule of law and process. I think that is all really important and I appreciate your leadership on so many issues including Waters of the U.S. In my district I heard about it again when I did a series of town halls a week ago. Farmers and ranchers are pretty concerned, but appreciative of where you are taking that rule and I think that gives them some certainty while protecting the environment, but not going too far.

Three weeks ago, you gave a speech about the importance of water to global public health, particularly safe drinking water and how unsafe drinking water poses the greatest, most immediate global threat to the environment. Can you please expound upon that position and how would you rate water quality in the good old U.S. of A.?

Mr. WHEELER. Our water quality, I believe, is the safest in the world. Back in the 1970s, 40 percent of our water systems failed to meet EPA standards. Today, 92 percent of our water systems meet the EPA standards every single day, but worldwide it is a huge issue. You have one to three million people dying based on water, unsafe drinking water or water sanitation issues. The U.N. estimates 1,000 children die every single day from lack of potable water. I think that is a huge issue and I think that we have the skills, we have the technology to help solve this problem worldwide.

Mr. WALDEN. Now obviously you know, Mr. Administrator, the Energy and Commerce Committee in the last Congress rewrote the Safe Drinking Water Act. We did that in a bipartisan way. We had some good, vigorous negotiations and that became law, the President signed it. And so, I would like to ask you a bit about the long-standing priority of this committee that when it comes to safe drinking water, Congress, last year, increased the authorization for the Drinking Water Revolving Loan Fund. Does the administration support a robustly funded Drinking Water State Revolving Fund?

Mr. WHEELER. Yes, we do. And I point out that at this point in time because money is added to the SRF every year, we loan it out, it comes back to the program, at this point in time there is \$80 billion circulating through the two SRFs that are currently out in projects around the country and that is key. But we did focus on our budget request, additional money for the WIFIA program, 25 million more than we asked for last year, and then we also asked for 83 million for AWIA which Congress passed last fall, but which we did not receive any funding for this year.

We actually have a number of deadlines that we are unfortunately not going to be able to meet this year because of no funding for AWIA, but we are asking for 83 million because I believe there are several really new, innovative programs in the AWIA legislation that will help smaller communities, rural communities with their drinking water systems. And so I think it is important to get those programs up and running as quickly as possible.

Mr. WALDEN. Yes, I do too, and we will look forward to working with you on those. Are any States having trouble with their matching fund requirements under the Act? What are you hearing from States?

Mr. WHEELER. Well, we certainly had issues with Puerto Rico even prior to the hurricanes there on the SRF. At this point I am not aware of any States in particular with matching fund issues. We can get back to you on that, but I am not aware of any the State matching fund issues.

Mr. WALDEN. OK, that is good. We are just trying to see what works and what doesn't, what we need to tweak. I understand the Agency continues its Lean program or its effort to assess and align its work force for better outputs. Is your team looking at succession planning and aligning expertise with offices?

Mr. WHEELER. Absolutely. The Lean management system, I think, has already shown a lot of success. It has shown success on our permitting side, also on enforcement side. We are getting the enforcement reports out to the regulating community faster, which gets environmental improvements done faster. And I am very con-



cerned about succession planning at the Agency. Right now, 40 percent of our work force is eligible to retire over the next 5 years.

We hired a new Human Resources Director 2 months ago. I actually interviewed the person and I am told that that is not typical for the Administrator because about three levels below me, but I thought it was important for me to interview the new Human Resources Director because I didn't want to hit her with a dozen issues on her first day without having met me first.

Mr. WALDEN. And I appreciate that. And I just want to close with this, Mr. Chairman. In the last Congress we had some level of difficulty getting your predecessor up here to testify on the budget. We appreciate your willingness to do so and to work with the committee on this and all host of other issues, so thank you and I yield back.

Mr. TONKO. The gentleman yields back. The Chair now recognizes the chair of the full committee, the gentleman from New Jersey, Representative Pallone, for 5 minutes.

Mr. WHEELER. Mr. Chairman, before he begins could I correct one thing that I said? I have said twice that we had a 25 million increase in WIFIA request. It was actually 25 percent. I have said that twice. I just want to correct that for the record.

Mr. TONKO. OK. Thank you very much.

Mr. PALLONE. Thank you, Mr. Chairman.

Administrator Wheeler, you could tell from my opening that I am deeply concerned about the direction of the EPA. As I said in my opening, I had hoped when Scott Pruitt resigned that EPA would return to its mission of protecting human health and the environment, but I think that this budget shows that protecting public health is not a priority. So I have a lot of questions, but I am going to try to move quickly and ask you really to answer yes or no. And, you know, if you can't answer yes or no then I am probably just going to assume it is a no.

Well, let me start. In 2017, Scott Pruitt committed to me in this room to expand the risk evaluation for asbestos to include exposures to legacy asbestos, but that hasn't been done. I think it is unconscionable that we are still importing and using asbestos 40 years after EPA started work on a ban, despite knowing that it is killing 40,000 people a year in this country. So my question is will you commit to banning ongoing uses of asbestos under TSCA, yes or no?

Mr. WHEELER. Yes, we are doing more on asbestos than any administration in the last 25 years.

Mr. PALLONE. All right, I appreciate that. Let me just keep going. Last year, Scott Pruitt committed to me and to the public that he would ban methylene chloride. But now you have moved forward with only a partial ban, leaving commercial uses in place. And this chemical has killed scores of workers and needs to be banned for commercial uses as well, in my opinion. So will you commit to banning commercial uses of methylene chloride?

Mr. WHEELER. We are taking comment on a training and certification program for commercial users.

Mr. PALLONE. All right. Well, so far, the answer I guess is no.

We have also heard a lot of talk from EPA on PFAS chemicals, but we haven't seen action to go along with it. All we have so far

on drinking water is an intention to reach a regulatory determination on two PFAS chemicals by the end of the year. I don't think that is enough. So the question is, will you commit to setting a strict MCL or drinking water standard for all the PFAS impacting drinking water in this country; and will you commit to ensuring that any MCL or drinking water standard that you set actually protects public health? That should be an easy yes.

Mr. WHEELER. We have already started the MCL process, but we haven't slowed down. We are still enforcing cleanups around the country. We have taken eight enforcement actions. We have assisted States in dozens of enforcement actions around the country.

Mr. PALLONE. All right. Well, it sounds like that is a no, too. I just don't see how the American people can trust you to protect their health and environment if you don't, you know, commit to what I just asked with regard to the MCL. And to make matters worse, we have seen serious efforts during your tenure to circumvent transparency and hide important risk information from the public. So I don't, in my opinion, these efforts have gone beyond what we saw in the Pruitt administration and are really cause for concern.

Now let me ask, on Pigment Violet 29 you have so far refused to share the scientific studies you used to exonerate a chemical many believe to be dangerous and I had to send you two letters to get those studies released. And when you do release them you still redacted the main data tables you relied on which I thought was unacceptable. Will you commit to sharing those data tables with this committee and with the American public? Do you follow what I am asking you?

Mr. WHEELER. The data that was redacted was confidential business information. As you know under TSCA we are required to keep CBI confidential.

Mr. PALLONE. So the answer is no again.

Mr. WHEELER. Under the law we can't, sir.

Mr. PALLONE. Well, that is a question of interpretation. Oftentimes the Trump administration says they are following the law and they don't, but whatever.

On PFAS, EPA recently released a notice of violation against Chemours, I guess that is Dupont, one of the main PFAS manufacturers, for issues at two PFAS plants. This notice should be an important tool for the communities around these plants, but the notice and report are so heavily redacted I think again it is ridiculous. My staff was able to find much of the redacted information already available to the public, but even a generic chemical identity which exists just to inform the public while protecting CBI was redacted.

And again, this over-redaction, I know you said it with regard to the previous question is, you know, you think you are required to do it. But I think it is way beyond what the law requires, and I think it is over-redaction, really is, is I think offensive to the communities that are dealing with this PFAS pollution.

So let me ask you on that, on this Chemours or Dupont, will you commit to sharing an unredacted version of the Chemours notice of violation report with this committee and the American public?

Mr. WHEELER. Again we have to safeguard confidential business information as required under our statutes. But we have directed Chemours to test hundreds of water supplies within the areas around the two facilities and they are doing that, and we are using our enforcement tools to make sure that it is getting done.

Mr. PALLONE. Well, I think again the answer is no and I disagree with what you think needs to be redacted, but I think you are just not doing enough to protect public health and the environment. And I appreciate your willingness to come here today, but we need more from you in terms of transparency, responsiveness, and action to address serious threats to our health. I just, you know, that is just my opinion and I want you to know that. I appreciate your coming, but we are not getting a lot of this information.

Thank you, Mr. Chairman.

Mr. TONKO. The gentleman yields back. The Chair now recognizes the gentleman from West Virginia, Representative McKinley, for 5 minutes.

Mr. MCKINLEY. Thank you, Mr. Chairman. And welcome—

Mr. WHEELER. Thank you, sir.

Mr. MCKINLEY [continuing]. My friend. Over the years, the various regions of the EPA, the ten regions, have come under a lot of criticism autonomously operating as they do, often each region operating with its own individuality contrary to others. I know in West Virginia that the compliance in West Virginia is out of Philadelphia, can be entirely different a thousand feet across the river in Ohio that comes out of Chicago. And I saw that last week you were putting out a reorganization on that long overdue. GAO came out with something back in 2006 called for some reorganization. I know that Senator Inhofe back in 2006 also called for that.

So I am curious to see a little bit—thank you for—hopefully you are going to address it thoroughly, but there are a couple of things with it. What is your objective and, secondly, what are going to be the metrics that we can measure that we have now finally gotten control over the ten agencies, or ten entities?

Mr. WHEELER. Certainly. Thank you, Congressman. First of all, our administration when we were selecting our regional administrators for the regions, we wanted to make sure that we selected people that had State experience. And I think that has helped us a lot in the regional management of all ten regions, having ten regional administrators with former State experience.

But what our regional reorganization, and it takes effect on Monday the 15th, we are realigning the regional offices to mirror the headquarters. You know, probably the biggest change, six of the regions had enforcement divisions, four of the regions did not have enforcement divisions. They sprinkled their enforcement people throughout each of the program offices. One region didn't even have an air division in the title. So people had a problem trying to figure out who to go to from region to region if you needed a permit or if you needed help on a particular issue.

So what we did was realigned all the regions to mirror the headquarters and it is going to allow, for example, the enforcement office at EPA headquarters to work more closely with the enforcement divisions around the country to make sure there is continuity

and to make sure that there is consistency between the regions and we will do that as well in the program offices.

Mr. MCKINLEY. I think the consistency is long overdue, so thank you for doing that. Two quick questions back to the State Revolving Fund. I know you have said that there is \$80 billion now floating through the system, but the optics of cutting \$300 million out this year is hard to promote. Can you explain that a little bit better about how cutting \$300 million out of an appropriation for the State Revolving Fund actually is going to help—

Mr. WHEELER. Well, we are asking—

Mr. MCKINLEY [continuing]. Get more sewer and water lines built, or water lines built around the country?

Mr. WHEELER. We are asking for close to \$2 billion in our budget request. It is not as high as what Congress appropriated for this year, but we are also asking for an increase in the WIFIA program from what we requested last year.

Mr. MCKINLEY. But the SRF, you are cutting the SRF—

Mr. WHEELER. We are also requesting—

Mr. MCKINLEY [continuing]. Three hundred million dollars or so. I am just trying to—I am hung up on the optics.

Mr. WHEELER. I understand.

Mr. MCKINLEY. Because my issue, every time I go to a county commissioner or whatever, they are asking for more money finding they need to have water and the infrastructure. And I am having a hard time to explain that there is \$80 billion flowing through the system—

Mr. WHEELER. There is.

Mr. MCKINLEY [continuing]. But they are not getting it.

Mr. WHEELER. But at this point in time we believe the WIFIA program offers some more innovative ways of funding some of these water projects and we are very encouraged by the legislation in the AWIA legislation from last year. So we are asking for more money for those two programs because we want to see if there is a different way of trying to solve the water problems for communities around the country.

Mr. MCKINLEY. Thank you, Administrator. Maybe we need to have more of a conversation later about this. The third and last question has to do with a small refinery in West Virginia. It is the only refinery we have. It is Ergon, 25,000 gallons a day trying to compete with Marathon that is, what, three million gallons a day of preparation. But under the DOE and the EPA you are treating them all the same.

I am troubled with that and I am hoping that you will look at that dealing with the RINs, how we might be able to take care of that. DOE has made some kind of recommendation to you, but it is up to you now with the EPA to make a determination of whether or not a 25,000-gallon boutique refinery should meet the same standards as a 3 million-gallon refinery. Do you have a comment about that?

Mr. WHEELER. That is a very unique refinery. They specialize in lube oil instead of gasoline—

Mr. MCKINLEY. Yes.

Mr. WHEELER [continuing]. As we have discussed before. I am happy to work with you and your office more on that. But it pre-

sents some different challenges as far as the small refinery exemption under—

Mr. MCKINLEY. Let's find a solution to those challenges, OK. Thank you.

Mr. TONKO. The gentleman yields back. The Chair now recognizes the gentlelady from the State of Delaware, Representative Lisa Blunt Rochester.

Ms. BLUNT ROCHESTER. Thank you, Mr. Chairman.

Mr. Wheeler, thank you for joining our committee today to talk about your Agency's budget and its priorities under your leadership. I do have to start by echoing the sentiments of my colleagues. I have a great deal of concern about your proposal to cut your Agency and your staff by nearly a third.

At your Senate confirmation hearing earlier this year, you testified that President Trump and the EPA are, quote, "focused on putting Americans first," end quote. You specifically cited the administration's commitment to expanding access to safe drinking water and protecting Americans living near hazardous sites from health risks.

Mr. Wheeler, I would like to just start off with a few like simple one word, yes or no questions. First, do you stand by that commitment?

Mr. WHEELER. Yes, I do.

Ms. BLUNT ROCHESTER. Yes. Second—thank you—do you believe that the Agency's actions under your leadership along with this budget proposal reflect that commitment?

Mr. WHEELER. Yes.

Ms. BLUNT ROCHESTER. And, Mr. Secretary, is it true that your fiscal year 2020 budget proposes to eliminate the safe water for small and disadvantaged communities' program?

Mr. WHEELER. Yes, I believe so.

Ms. BLUNT ROCHESTER. Isn't it true that the purpose of that program is to support drinking water projects and activities in small and disadvantaged communities that are unable to finance projects to comply with drinking water regulations under the Safe Drinking Water Act?

Mr. WHEELER. Yes, but we are looking to use the AWIA legislation that Congress passed last year to work with those same communities. We think the flexibilities of AWIA might be a better use of the dollars.

Ms. BLUNT ROCHESTER. So I am going to ask you a question because it is my understanding that this money had already been appropriated before. Can you give me the rationale? Is there a study or something that shows why you made this decision?

Mr. WHEELER. We are moving forward with the money that was appropriated, but as far as for next year, 2020, we believe funding the AWIA program which would target the same communities might be a more innovative way of using the funding from Congress.

Ms. BLUNT ROCHESTER. Has the program even been established? I mean it was appropriated, it is my understanding, before this year, before you even came on board.

Mr. WHEELER. I am not sure I understand what you mean.

Ms. BLUNT ROCHESTER. I was aware that \$45 million had been appropriated for this program, correct?

Mr. WHEELER. And we are moving forward with the money that has been appropriated. But for 2020—

Ms. BLUNT ROCHESTER. But you are shifting.

Mr. WHEELER [continuing]. We are suggesting the money should go to AWIA, 83 million to AWIA to address some of the same communities.

Ms. BLUNT ROCHESTER. So again I just want to be clear. Does that mean it is not going to be specifically targeted toward small and disadvantaged communities? Just so I can have that on the record.

Mr. WHEELER. Not from that program, but there are other ways of targeting small, disadvantaged communities through the AWIA program.

Ms. BLUNT ROCHESTER. So we do have a commitment that at least \$45 million will be targeted to small and disadvantaged communities?

Mr. WHEELER. I don't know the dollar amount. It depends on what the appropriations that we do receive for AWIA, but the program that you are asking about that money will be going out this year.

Ms. BLUNT ROCHESTER. OK, so first of all, my concern is that—

Mr. WHEELER. So \$45 million will be going out there.

Ms. BLUNT ROCHESTER [continuing]. There was a program, the money wasn't appropriated, now we are kind of putting it all together. I just want to share with you, in Delaware we have a small town called Ellendale and it is a community that has struggled to have clean, safe drinking water. They have had elevated levels of bacteria and nitrates and iron in the water and fortunately they have had residents like Mr. Harold Truxon and Ms. Delores Price who have determined and worked hard to make sure that they passed a referendum after two failed ones, after 35 years of trying to get safe drinking water, 400 people in this small community, 20 percent poverty level, and to me budgets and calendars reflect priorities.

I am concerned that in addition to this, there is also the elimination of the small minority business assistance program, and so if we have priorities our budgets should reflect that. What I would love to hear is a commitment that small, rural, and disadvantaged communities that need the support and leadership can count on that kind of support and commitment and that we can see these dollars that were targeted for those areas actually go to those areas. Do I have that commitment?

Mr. WHEELER. Yes. And the money for the assistance for small, disadvantaged communities of 45 million will be going out this summer, and again we believe under AWIA next year we can target those same communities.

Ms. BLUNT ROCHESTER. Thank you and I yield back.

Mr. TONKO. The gentlelady yields back. The Chair now recognizes the gentleman from the State of Ohio, Mr. Johnson, for 5 minutes.

Mr. JOHNSON. Thank you, Mr. Chairman.

And, Mr. Wheeler, thank you again for joining us today. A few years ago I helped to get language added to Section 8 of the Toxic Substances Control Act to create a negotiated rulemaking between EPA and regulated stakeholders to reduce duplicate reporting of unintended byproducts. Unfortunately, the legal and procedural venues were not conducive to producing a satisfactory result.

I understand that the Agency is close to proposing a rulemaking under TSCA Section 8. Will that rulemaking make any effort to address duplicate reporting to the Agency?

Mr. WHEELER. I believe it will, but I will have to get back to you with the details on—

Mr. JOHNSON. OK, yes, could you please? I appreciate that. Thank you. In the last Congress, the subcommittee examined Clean Air Act provisions that could be updated to reflect what we have learned over 30 years such as the NSR program. We heard witnesses express concern that innovative technologies and systems to improve facilities are being left on the shelf, unfortunately, because of current NSR processes. We learned how the NSR program can make things like incremental pollution control improvements, carrying out energy efficiency upgrades and keeping facilities in good working order for safety and reliability purposes very, very challenging. I believe we also learned that we can accomplish most or all of the anticipated environmental benefits of the NSR at considerably reduced cost with creative reforms to this program.

So, Administrator Wheeler, can you speak broadly about why updating the NSR program would be beneficial and what you are going to do or what you are doing to explore administrative changes to the program?

Mr. WHEELER. Absolutely. First, to answer your second part, we have a number of guidance documents we have issued over the last year and a half from the Air Office on New Source Review including the once in always in guidance, and we are now working to put those into regulatory text and to offer public comment. Previously, NSR regularly discouraged companies from investing and deploying the cleanest and most efficient technologies. Through our NSR reforms we are providing clarity to permitting requirements, we are improving the overall process. We are also incentivizing investments in the latest energy technologies.

So we are trying to modernize the NSR program to make sure that it is not a deterrent to pollution prevention going forward.

Mr. JOHNSON. OK. Would reforms that make it easier to make decisions to upgrade equipment that led to reduced greenhouse gas emissions help our nation's climate policies, do you think?

Mr. WHEELER. Yes, it would.

Mr. JOHNSON. OK. What is the status of your proposed rulemaking to replace the Clean Power Plan and how does that proposal address New Source Review?

Mr. WHEELER. In the proposal we had a section on New Source Review to allow companies to install the latest energy-efficient equipment at their facilities and without having to trigger NSR which will get reductions faster. We are looking at whether or not to include that in the final regulation or that add as a separate NSR regulation, but in either, event we will either move forward

with it together or separate, but we will move forward with both pieces.

The ACE proposal, once it is fully implemented, will reduce CO2 emissions from the electric power sector by 34 percent which will go a long ways to meeting our CO2 goals for the country.

Mr. JOHNSON. OK. Are there other initiatives you could pursue this year to provide greater certainty to facilities and will make the steps to upgrade without fear of triggering NSR?

Mr. WHEELER. Yes, we have several. As I mentioned, we have several NSR regulatory rulemakings in the process. We have additional guidance documents that will be going out, but we are trying to modernize the NSR program which has kind of been stuck in 20 years and has not allowed for innovation for new pollution prevention control technologies.

Mr. JOHNSON. OK. I have about 33 seconds left.

Recently, the Agency released a multi-prong PFAS action plan. There are 4,000 PFAS chemicals and yet only 18 can be detected in water, and health effects are known about one-half of one percent of the substances. Can you talk just real briefly about the importance of getting the work right to understand how best to approach PFAS issues moving forward?

Mr. WHEELER. Absolutely. You know, there are thousands of different PFAS chemicals. We have some of the best researchers in the world working on this in our research labs. The same control technologies can't be used for the different PFAS chemicals. Some of the long-chain compounds, the control technologies don't necessarily work for the short-chain, also the detections are different.

Mr. TONKO. OK, the gentleman yields back. The Chair now recognizes the gentleman from Florida, Representative Soto, for 5 minutes, please.

Mr. SOTO. Thank you, Mr. Chairman.

Administrator Wheeler, is climate change real?

Mr. WHEELER. Yes.

Mr. SOTO. And is it caused by human activity?

Mr. WHEELER. Human activity certainly is a causing factor of climate change, yes.

Mr. SOTO. And is fossil fuels and other carbon emissions part of that human activity causing climate change?

Mr. WHEELER. Yes.

Mr. SOTO. And there was a recent NOAA report, the Federal Climate Assessment, on November 23rd, 2018. Do you agree with the assessment of what could happen based upon climate change in that NOAA report?

Mr. WHEELER. Well, the assessment at least in the press focused more on the worst-case scenario, which is the 8.5, RCP 8.5, which that worst-case scenario is actually no longer being used by the U.N.'s IPCC, so I think the news reports at least of the assessment are slightly misleading. But the underlying science, I have been briefed by my staff a few times on it. I read the assessment when it came out and we are moving forward.

As I mentioned a minute ago, our ACE proposal is going to reduce CO2. Our CAFE standards will also reduce CO2. So we are moving forward with the authorities that Congress has given us under the Clean Air Act to address CO2.



Mr. SOTO. Thank you. And we had some op-eds in my local district where local constituents of mine were concerned about stacking science advisory groups with industry folks and a reduction in monitoring and enforcement. Can you give us an idea of the number of cases brought in 2016 versus '17 and '18 and what you are looking like this year as far as cases brought?

Mr. WHEELER. Well, the cases do vary from year to year particularly on the fines. This year is going to be particularly large with the recent Fiat Chrysler enforcement action that we took in January. Our criminal cases last year were an uptick, the first time we had an increase in criminal cases since 2011. We also have an increase on the audit side, so we are trying to prevent the pollution from happening through the audits. But if it does happen, we are making sure that people realize we are going to be taking criminal cases if we need to, to make sure that people are compliant with the law.

Mr. SOTO. So there has been an uptick in criminal and audits, but a downtick overall with civil cases; is that fair to say?

Mr. WHEELER. There was a slight downtick, I believe, in civil cases last year. You know, one of the things that we have been criticized is a downtick in the number of inspections. But as we delegate more programs to the States, the States have the primacy there and they conduct the majority of the inspections. And we are providing technical assistance through our criminal lab in Colorado to a number of States around the country to help them with their inspections to make sure that they are done properly.

Mr. SOTO. Thank you, Mr. Wheeler. And, you know, I come from the State of Florida. We have a big issue with the red tide and toxic algae blooms. We have had researchers say that the warmer weather may now be a key determinant of algae blooms in Lake Okeechobee. And scientists have found that over the last 25 years, Lake Okeechobee has continuously warmed and according to NOAA the, quote, "harmful algae blooms in general expected to increase in a warming world thanks to warming sea surface temperatures," end quote.

And then the director of Florida Sea Grant at the University of Florida said, I quote, "at this time it is not clear if the ecosystem services provided by Lake Okeechobee can be protected if climate change in the future decades includes both increased temperatures and less rainfall."

Do you agree with those scientific assessments?

Mr. WHEELER. I would have to look at those assessments specifically. I rather not give a general agreement without having read the actual assessments.

Mr. SOTO. Does the EPA generally agree that warming seas could exacerbate algae blooms?

Mr. WHEELER. Yes. That is one of the factors exacerbating algae blooms. Also, nutrients are as well, and we are working on that through a number of innovative ways. We just released a new market-based mechanism program in February to try to help farmers on nutrient-loading—

Mr. SOTO. And would a reduction in emissions help combat climate change and potentially fix this potential damage in the future?

Mr. WHEELER. If you are referring to reductions in CO<sub>2</sub>—

Mr. SOTO. Yes.

Mr. WHEELER [continuing]. Yes, but it is on the margins. I think adaptation is very important. And why it is important, the President was down at Lake Okeechobee last week or the week before and committed to fully funding the program there for the dike. I think that is very important. We are working on the other side with the nutrient-loading and we have some of the best researchers in the world on the algae blooms at a number of our research facilities including RTP in North Carolina which is doing some groundbreaking research on how to better protect—

Mr. SOTO. Thank you, Mr. Wheeler. And we appreciate the President being there. We were concerned about the budget cuts, but obviously we will be working on those.

Mr. Chairman, I would like to introduce a letter to the record from nearly a dozen public health groups declaring that climate change is, in fact, a health emergency for both algae blooms and Lake Okeechobee.

Mr. TONKO. At the end of the hearing we will take up all the offers for submission to the record.

Mr. SOTO. Thank you.

Mr. TONKO. But we are pleased to do that.

The gentleman yields back and now the Chair recognizes the gentleman from Missouri, Representative Long, for 5 minutes.

Mr. LONG. Thank you, Mr. Chairman.

And, Mr. Wheeler, 362 days ago, the President issued a memo to EPA directing the Administrator to take specific actions to ensure more efficient and cost-effective implementation of the Agency's National Air Quality Standards Program. The President requested more timely processing of State implementation plans. Can you give us an update and report card on yourself on that?

Mr. WHEELER. Yes. We are moving forward to conduct the 5-year review for both PM and ozone and conduct them both on time. It will be the first time the Agency has ever completed that. We have taken a number of steps to shorten the review period. The Clean Air Act directs us to review it every five years and we are on schedule to get it done in the 5-year period which is the end of 2020.

Mr. LONG. OK. The President also requested engagement with States on regional haze plans. How are you doing on that? Can you give us an update?

Mr. WHEELER. I think we are doing very well on that. You know, the previous administration issued a record number of Federal implementation plans, most of them around the Regional Haze Program. In fact, they issued more FIPs than the previous four administrations combined. What we have done since March of 2017 is, on average, turn one FIP into a SIP each month, and turn it from a Federal implementation to a State implementation plan.

So we are working much closer with the States to make sure that they are moving forward, but we are working cooperatively and collaboratively with the States.

Mr. LONG. The President in that memo also requested more timely processing of pre-construction permit applications which has been a big issue. How are you doing there?

Mr. WHEELER. Well, I think we are moving forward on that very well and again working closely with the States.

Mr. LONG. OK. In the past two Congresses we have been trying to enact reforms to air quality standards that help prevent areas from being unfairly penalized for emissions beyond their control. I am reminded of a hearing we had in here in the last Congress, when we had several folks in from California and they said that their cities were concerned; if you took every motorcycle, every big truck, every car, every everything off every train, everything off the highways, and rails of California, they could still not comply with the ozone standards.

So the President asked in his memo that you respond more quickly to States' petitions for relief under exceptional events and international emissions provisions of the Clean Air Act. What are you doing to implement this directive?

Mr. WHEELER. We are working more closely with the States. I think I mentioned in my opening statement that we moved Cleveland from a non-attainment to attainment last week for particulate matter. We have another one that we are announcing this week, I don't believe it is public yet, where we are going from non-attainment to attainment.

We are trying to work with those communities and also working with them on the exceptional events and things outside their control such as forest fires or emissions from China. We know a lot more on modeling on where the emissions are coming from and a lot of the emissions that are impacting Western States, Colorado, for example, is coming from overseas.

Mr. LONG. And that continues to be a huge issue because if you have ever traveled to Beijing or several places in China, you can't see across the street.

The President's memo also directed you to fully implement the Clean Air Act providing that require the Clean Air Scientific Advisory Committee to advise you on the adverse health or other effects that may result from implementation of revised air quality standards. In previous administrations, the legal requirement to look at other adverse impacts including welfare, social, economic, and energy effects was ignored by the EPA.

Have you provided direction or a charge to the Scientific Advisory Committee to provide you with advice about other adverse impacts that may result from efforts to meet air quality standards?

Mr. WHEELER. I have. We have asked them to provide advice on all the issues you just named.

Mr. LONG. And that is going fairly well?

Mr. WHEELER. Yes.

Mr. LONG. OK. Will you provide for the record an update on each item in the President's memo that again 362 days ago when it came out and how EPA is addressing those directives?

Mr. WHEELER. Yes, happy to, sir.

Mr. LONG. OK, thank you.

And, Mr. Chairman, I yield back.

Mr. TONKO. The gentleman yields back. The Chair now recognizes the gentlelady from the State of California, Representative Barragán, for 5 minutes.

Ms. BARRAGÁN. Thank you.

Mr. Wheeler, I want to ask you about the drinking water infrastructure portion of the budget. My understanding is that EPA is requesting approximately \$300 million less than the fiscal year 2019 amounts were enacted; is that correct?

Mr. WHEELER. Yes. That is correct.

Ms. BARRAGÁN. Have you ever gone to a community and been served brown water to drink?

Mr. WHEELER. Brown water to drink? Yes, probably in parts of—no offense, sir, but probably parts of West Virginia over the years.

Ms. BARRAGÁN. And have you drank that brown water?

Mr. WHEELER. No.

Ms. BARRAGÁN. Is there a reason why you haven't drank that brown water?

Mr. WHEELER. I wasn't sure of the safety of it. As I said in my opening statement though, 92 percent of the water systems in the country today meet EPA standards every single day.

Ms. BARRAGÁN. Well, do you know that brown water in some communities are deemed to be safe, yet it is still brown, yet children get—they are straight-out concerned about the brown water. They are afraid of the water. They don't want to drink the water, it tastes bad. Have you heard of these reports before?

Mr. WHEELER. Not specifically. But when we hear those reports we work with the communities to make sure that the water is, in fact, safe.

Ms. BARRAGÁN. Well, let me tell you—

Mr. WHEELER. We work with States and local communities to test the water.

Ms. BARRAGÁN. I appreciate that.

Mr. WHEELER. Everyone regardless of their ZIP Code deserves safe drinking water.

Ms. BARRAGÁN. I want to share with you what happened in my congressional district. In Compton, California, the water was coming out brown from the faucets. It was tested and my constituents were told that the water was OK to drink, that it was completely safe. And I guarantee you that nobody, none of the elected officials in my district wanted to drink that water.

And, Mr. Wheeler, if you were served that water you wouldn't want to drink it either. This is where there is a huge disparity in environmental justice. In black and brown communities in particular and low-income communities across the country are being told it is OK, that they have to drink brown water even though it tastes terrible, and even though children are afraid of it, and even though when they bathe with this water they develop rash and they have other health impacts like an upset stomach. And it is completely unacceptable that anybody would have to drink brown water.

And so I invite you to go to some of those communities to see the water. If you think it is safe like it is tested, drink it. Show the community that if it is good enough for them it should be good enough for you as well. And I see this cut by \$300 million and it concerns me, and this is exactly why we are not having infrastructure projects for safe drinking water, and what I would call clean water for our constituents. And so, I would ask you to visit these communities and I would invite you to some of them.

I want to move on to another topic. My district also includes the Port of Los Angeles. Now it is one of the busiest shipping facilities in the country. Heavy-duty trains and trucks carry cargo back and forth between the port and major rail yards. Diesel exhaust from rail traffic is a significant source of air pollution including particulate matter. Diesel exhaust is linked to higher deaths and higher incidences of asthma, cancer, stroke, heart attack, and premature deaths.

My constituents have to breathe this polluted air. These are low-income communities of color that live, work, and go to school near the port and the rail corridors. They disproportionately bear the burden of this pollution. What are you doing to help these communities by reducing air pollution from locomotives and other rail facilities?

Mr. WHEELER. Well, we are working with the State of California. When I was in private practice I actually represented the South Coast Air Quality District, so I am very familiar with the issues around the port. We are working through our Region 9 office out of San Francisco to help reduce the pollution of those areas. We have a number of grant programs that help areas like that.

And we also, in addition to the locomotives issue we also have the heavy-duty diesel truck issue as well. And we announced this year that we are going to reduce NOx from the heavy-duty trucks even though it is not required by statute or by law.

Ms. BARRAGÁN. I want to focus on rails, sir. I appreciate you wanting to tell me about the truck program, but could you maybe tell me on the rail program what you all are doing?

Mr. WHEELER. I will have to get back to you, specifics on the rail program. I don't want to give you wrong data.

Ms. BARRAGÁN. Well, will you commit to bringing EPA's regulatory power and ability to drive market incentives to bear to move the rail industry toward zero emissions technologies?

Mr. WHEELER. We are working with the rail industry and we are trying to reduce the pollution across the board.

Ms. BARRAGÁN. So you won't commit. OK, thank you. I yield back.

Mr. TONKO. The gentlelady yields back. The Chair now recognizes the gentleman from the State of Texas, Representative Flores, for 5 minutes, please.

Mr. FLORES. Thank you, Chairman Tonko and Leader Shimkus, for today's meeting. Administrator Wheeler, thank you for being here.

I would like to comment before I get into my questions about a quote from Chairman Pallone a few minutes ago. It says "that a budget is an expression of priorities." I would like to remind everyone in the audience today that the Democratic House majority has recently said that they don't intend to put forward a budget, so I think the American people are rightly curious about what the Democratic House priorities are.

Administrator Wheeler, in response to the design flaws of the RFS the way it is today, the statutory design flaws as well as the pending expiration of the RFS in 2022, Leader Shimkus and I put together a proposed piece of legislation that was based on input from the brightest minds and engineers not only in the vehicle

space, but also in the renewable fuel space, refining community, those in the retail community for vehicle fuels. And it was done so that it proposed a high-octane standard so that we could get the most desirable level of efficiency and emissions in one solution.

Do you have views on the effectiveness of that approach of having an integrated solution for fuels and vehicles in one piece of statutory legislation?

Mr. WHEELER. Well, as far as a nationwide octane standard, we don't believe we have the authority to create one absent congressional authorization.

Mr. FLORES. That was actually my next question, so.

Mr. WHEELER. I am doing them in reverse.

Mr. FLORES. OK. So you are saying the EPA doesn't have the authority. What do you think about that type of solution in terms of having a statutory solution in order to address emissions and efficiency to combined vehicle design and fuel performance specifications?

Mr. WHEELER. I can't at this point give you specific administration approval, you know, acceptance or acquiescence on congressional legislation without going through the OMB process. In general terms, I do think we need to be creative in how we look at the next generation of the RFS post-2022, and I think everything should be on the table. And I think the program does need to be modernized with the way that we have seen the data develop over the last 10 years.

Mr. FLORES. OK. That is what Mr. Shimkus and I were attempting to do is to be creative and to think outside the box. But we did it with having the brightest minds and engineers working on this from all parts of the space including the environmental community.

I want to follow up on Mr. Shimkus' questions regarding vehicles and fuels. Some folks in Washington would like to see a heavy reliance on electrical vehicles in the future. I think that makes some sense. However, there are some issues that we need to be concerned about in doing that, particularly the environmental impact of lithium batteries. Is the EPA studying the impact of a much higher use of electric vehicles in terms of environmental impact of lithium batteries?

Mr. WHEELER. I am not aware of specifically the greater use of lithium batteries. We are not approaching the automotive industry as social engineering as I believe the previous administration did. The Obama CAFE standards would have required 30 percent electric vehicles in order to comply with these standards by 2025. We are looking at what the American public is buying and trying to set standards regardless of the type of automobile.

So we are not doing social engineering, but there are certainly issues, environmental issues around all choices including electric vehicles and lithium batteries. But every form of energy has environmental tradeoffs and oftentimes those are not recognized by proponents of one form of energy over another.

Mr. FLORES. Well, I appreciate your comments. I would encourage the EPA to keep an eye on that. As electric vehicles come into more common usage there is going to be an environmental impact from lithium batteries, so I would encourage you to keep that in mind.

I am going to run out of time before you get a chance to answer this question, so I am going to ask you if you would supplementally respond. In terms of the RVO reset that you are working on today, I would like to know if the EPA is looking into any sort of EV RINs, if they are looking at the impact of higher ethanol on RIN prices and gas prices, the impact on legacy vehicles, and the impact on storage facilities and retail pumps. So if you would supplementally respond that would be great.

Mr. WHEELER. I would be happy to submit that for the record.

Mr. TONKO. And the gentleman yields back. The Chair now recognizes the gentlelady from the State of Colorado, Representative DeGette, 5 minutes, please.

Ms. DEGETTE. Thank you so much, Mr. Chairman.

Administrator Wheeler, I just want to make one point with respect to the statement you made about the pollution in Colorado, the air pollution coming from Asia. And you are right, some of that seems to be coming from other places. But our former colleague and now Governor Jared Polis has announced that he is not going to seek an exemption for that because irrespective of the source, the fact is that the air pollution is still harming Coloradoans. And so we need to do everything we can, not just in Colorado but around the country. We need to help work with these other countries to minimize their sources, but we also need to work on it here because it makes our people sick no matter where it comes from.

I want to follow up on some of the questions that my colleague was asking about environmental justice because I represent an urban area, as you know. Are you familiar with the EPA's EJ 2020 Action Agenda which is on the EPA's website?

Mr. WHEELER. Yes, I am.

Ms. DEGETTE. And has the current administration adopted this Action Agenda?

Mr. WHEELER. I would have to get back to you on the specifics of the answer.

Ms. DEGETTE. You don't know whether you have adopted it?

Mr. WHEELER. We elevated environmental justice to the Administrator's Office—

Ms. DEGETTE. Right.

Mr. WHEELER [continuing]. To give greater emphasis on environmental justice. And to go back to a comment—

Ms. DEGETTE. But so the Action Agenda is on your website right now.

Mr. WHEELER. Yes. I believe we are implementing all of it.

Ms. DEGETTE. So if you would get back to me and let me know if you support it.

Mr. WHEELER. Absolutely.

Ms. DEGETTE. One of the things that the Action Agenda has done is it asked the EPA to identify, quote, "100 of the most overburdened communities where data indicate that facilities present a high likelihood of serious noncompliance issues impacting those communities and address serious violations, if found." Are you familiar with that provision?

Mr. WHEELER. Not specifically that provision. That is why I would like to get back to you on those.

Ms. DEGETTE. Do you know if the EPA has identified the 100 most overburdened communities?

Mr. WHEELER. We are in the process of identifying communities around the country that are under the new economic development process, where I think there is overlap between that list and the EJ list.

Ms. DEGETTE. OK, so when do you think you will have that done?

Mr. WHEELER. I am not sure. I have to get back to you on that.

Ms. DEGETTE. One month, six months, a year?

Mr. WHEELER. I would have to get back to you on that.

Ms. DEGETTE. Well, I would appreciate if you would get back to me, because you do have some communities in my district—Swansea, Elyria, and Globeville—that warrant specific attention and have for years, so this is of great urgency. It sounds like the administration realizes this is of great urgency; is that right?

Mr. WHEELER. Yes. In my first week on the job as the Deputy Administrator I sat down with our Environmental Justice Office to talk to them about what they are working on.

Ms. DEGETTE. Well, that is wonderful, but we need to know which communities you are targeting.

Mr. WHEELER. Right.

Ms. DEGETTE. Thank you. Now actually the fact that you keep saying you are going to get back to me leads me to another set of issues that I have. You probably know I am the chair of the Oversight and Investigations Subcommittee of this committee, and one of the things that we are looking at in my committee is what the EPA is doing which could undermine actions against mercury, which is a toxic chemical emitted from coal-fired plants, which can lead to brain and nervous system damage in young children.

So do you know how many electric generating facilities nationwide have installed pollution controls to limit mercury emissions under the current mercury rule?

Mr. WHEELER. I don't have the number off the top of my head, but that rule has been fully implemented at this point.

Ms. DEGETTE. So does the EPA—

Mr. WHEELER. We are not rolling back anything on the mercury proposal.

Ms. DEGETTE. OK. Does the EPA have the number?

Mr. WHEELER. Yes. I am sure we have the number, I don't have the number off the top of my head.

Ms. DEGETTE. Can you get that number to me?

Mr. WHEELER. But that regulation has been fully implemented and we are not rolling that back.

Ms. DEGETTE. OK. OK, great. Do you have the number?

Mr. WHEELER. I will get you the number. I don't have the number off the top of my head.

Ms. DEGETTE. Thank you. And do you know how many facilities requested an extension for complying with Federal mercury standards?

Mr. WHEELER. And I believe all the facilities are currently in compliance with that standard.

Ms. DEGETTE. OK, so you are not aware of any that have requested an extension?



Mr. WHEELER. Off the top of my head, no, I am not.

Ms. DEGETTE. OK. Now, so I and other members of the committee sent your Agency several requests for documents specifically relating to the last two questions I asked you and we have not gotten any documents back, and so I am glad that you are saying you are going to get me information today. I am glad you are saying you are willing to work with the committee.

But we have not gotten these documents, so I just want to ask you, do I have a commitment from you that we are going to get responsive documents to the requests that we are making?

Mr. WHEELER. Absolutely, Congresswoman.

Ms. DEGETTE. OK.

Mr. WHEELER. We have received seven letters from this committee. We have provided substantive responses to six of those letters, and the seventh one should be with you all in the next few days.

Ms. DEGETTE. OK. Well, we—

Mr. WHEELER. We have provided over 4,000 pages of documents to this committee already this year.

Ms. DEGETTE. We have a whole bunch of pages of documents.

Mr. WHEELER. Yes.

Ms. DEGETTE. A lot of them have a lot of redactions, sir. But they don't relate to the specific requests that we are making.

Mr. WHEELER. OK.

Ms. DEGETTE. So I would just ask if you can go back and work with your staff to look at the specific requests that we are making and try to be responsive to those.

Mr. TONKO. The gentlelady yields back.

Ms. DEGETTE. Thank you very much.

Mr. TONKO. And the Chair now recognizes the gentlelady from California, Representative Matsui, for 5 minutes.

Ms. MATSUI. Thank you, Mr. Chairman. And thank you very much, Administrator Wheeler, for coming here today.

I have several questions about the proposed rollback of fuel economy and air pollution standards for light-duty trucks and cars. Now this proposed action is a perfect example of how EPA prioritizes boosting industries like oil industry over public health and safety. Last year, EPA announced a proposal to replace the Obama-era standards with a watered-down rule that would result in increased air pollution and less efficient cars on our roads, harming Americans' public health, American jobs, and the economy.

As you know, California is uniquely situated. It has some of the worst air quality in the country. It also has a unique authority under the Clean Air Act to regulate pollution from cars to try to meet Federal clean air standards and improve public health. Let me ask you first, have you completed the rulemaking? Is a final rule ready for publication?

Mr. WHEELER. It has not been completed yet, no.

Ms. MATSUI. OK. Then why did you tell the Washington Examiner last month that you have already decided to revoke California's waiver?

Mr. WHEELER. At this point we are moving forward to revoke the waiver, yes, but the rulemaking is not completed.

Ms. MATSUI. OK. You said, and I quote, “to have a 50-State solution we have to take care of the waiver,” end quote. Putting aside for a moment that this is wrong, are you not bound by administrative law to consider all evidence and comments submitted before making a final decision?

Mr. WHEELER. We are and we are working through all those comments, yes.

Ms. MATSUI. OK. I would like to also discuss the fact that you publicly announced that you would not further negotiate with California. In the same interview with the Washington Examiner, you said EPA made a proposal to California. What exactly did you propose?

Mr. WHEELER. That was our proposal that we released last summer was our CAFE proposal. And I was told—I met with Mary Nichols three times. She said that she would get us a counter within 1 to 2 weeks. We waited over 3 months—

Ms. MATSUI. My understanding is that—

Mr. WHEELER [continuing]. Before we got a response from California.

Ms. MATSUI [continuing]. The back-and-forth was really not a back-and-forth at all. I mean it was nothing that was different than was proposed earlier.

Mr. WHEELER. That was our proposal, Congresswoman.

Ms. MATSUI. Well, it didn’t go anywhere with us.

Mr. WHEELER. We never got a real counterproposal from the State of California.

Ms. MATSUI. It was the same proposal that you kept moving forward and you weren’t listening to our proposal. Now, Administrator Wheeler, if you actually engaged in good faith negotiations with California automakers, with the automobile manufacturers, you could achieve a 50-State solution through a negotiated agreement. And the fact is even though you dispute this, you really never tried.

I want to turn attention to the climate crisis. Last week at the DC Auto Show when asked about the carbon impacts of your SAFE proposal, you said that your proposed rule as compared to the Obama standards gets about the same amount of CO<sub>2</sub> benefit. In fact, your staff gave a presentation in September 2018 to the Clean Air Act Advisory Committee that explained that your proposal would increase carbon pollution by 3.8 billion tons through 2050.

And the draft environmental impact statement for the proposed rule concluded that your recommended standards would increase carbon pollution by over seven billion tons throughout the end of the century. That is more than the total annual carbon pollution across the entire United States. Administrator Wheeler, either you are wrong, or your staff and the draft environmental impact statement are wrong. What do you think it is?

Mr. WHEELER. I have been told by my staff that the CO<sub>2</sub> reductions, the impact of the CO<sub>2</sub> reductions are pretty similar to what the Obama administration would have received under their—would have gotten under their proposal.

Ms. MATSUI. Well, that is not exactly what the—

Mr. WHEELER. Because the Obama proposal, I had a number of exemptions and off-ramps and the car automobile manufacturers aren't complying with the Obama standards today.

Ms. MATSUI. Well.

Mr. WHEELER. Only three companies today are able to comply with this year's standards.

Ms. MATSUI. Well, I still believe that this is not—it sounds awfully confusing to me.

Mr. WHEELER. We have to take that into account too.

Ms. MATSUI. It sounds awfully confusing to me.

Another issue that we would like to bring up is that there is no dispute that EPA used the OMEGA model in the rulemaking process to roll back fuel economy standards. EPA has refused to release the model. Will you commit to releasing the latest version of the model, yes or no?

Mr. WHEELER. We did not use the OMEGA model for the proposal. We have been working with the OMEGA model. The last version of the OMEGA model that was finished in 2016 was released publicly, but we do not release models while we are in the middle of a rulemaking process. No.

Ms. MATSUI. Not at all. We would like a little more transparency here.

Mr. WHEELER. Not during a rulemaking process.

Ms. MATSUI. OK. Now you may pretend that climate change is not an imminent threat, but Americans across this country are reeling from natural disasters that climate change is exacerbating, and it is only getting worse. We urgently need to reduce carbon pollution not recklessly boost it, and with that I yield back.

Mr. TONKO. The gentlelady yields back. The Chair now recognizes the gentleman from California, Representative McNerney, for 5 minutes, please.

Mr. MCNERNEY. I thank the chairman and I thank you, Mr. Administrator, for testifying this morning.

Mr. WHEELER. Thank you.

Mr. MCNERNEY. My district, California's 9th, is located at the northern end of the San Joaquin Valley and it is home to one of the nation's worst air quality which routinely fails to meet the Federal standards for ozone and particulate pollution. That is why I was disheartened but not surprised by the budget request. Part of your Agency's mission is to protect the quality, the air quality, yet your fiscal year 2020 budget proposes a 46 percent cut in funding for that purpose. Notably, the proposed cuts and categorical grants include a 35 percent cut in funding for air and radiation primarily to support State, local, and tribal air quality management programs.

So how can the EPA tout principles of cooperative federalism and simultaneously undermine these principles by not providing nearly enough resources for States to conduct their own air quality programs?

Mr. WHEELER. We believe the resources we have requested through the budget will allow us to return the Agency to its core mission of protecting public health and the environment; and we have a number of different tools where we can help the States and local governments meet the standards.

Mr. MCNERNEY. I think you will find there is pretty universal disagreement with that assessment, Administrator.

PFAS are also of pressing concern in my district and nationwide. I had good hopes for your PFAS Action Plan, but now we see that it fails to address these exposures and the concerns of the American public. The plan does not deliver drinking water standards, Superfund cleanup requirements, waste limits, water discharge limits, air emission limits, or even report on releases. We need real action to address PFAS in our drinking water, our soil, and our air.

I want to focus though on-air releases because I don't think they have gotten the attention they need. I was pleased when David Ross, your assistant administrator for the Office of Water, recently told Congress that the Agency was investing in stack emissions research related to PFAS, but I don't see that or other key emission testing research in your budget. Will you commit, Mr. Wheeler, to fully funding the Office of Research and Development air emissions testing and methods for development of PFAS, will you make that commitment?

Mr. WHEELER. We have not cut the research for PFAS/PFOA. We have a lot of research going on in a number of our labs around the country. It is a high priority and we are moving forward with a lot of research. We are looking at both identifying the chemicals, trying to identify the human consequences from the different versions of the PFAS/PFOA. There are several thousand different chemicals in this family of chemicals and we are looking at the different clean-up technologies. So we are doing groundbreaking research by our EPA career employees at a number of our facilities in looking at the entire lifecycle of the PFAS/PFOA.

Mr. MCNERNEY. OK, that sounds good. But evidence is coming in showing that air emissions of PFAS end up in our water, so we can't ignore this pollution source either. Emerging contaminants such as PFAS demand more investment in science, not the kind of cuts that we are seeing in your proposed budget.

Linda Birnbaum, the director of the National Institute of Environmental Health Sciences, recently testified that the Institute's research on toxicity of PFAS chemicals, it is essential that EPA make use of this research in doing what it does to address PFAS. Will you commit to using the research of the National Institute of Environmental Health Sciences has done on PFAS chemicals and ensuring that the regulatory actions you take on PFAS are consistent to address the hazards that the Agency has identified?

Mr. WHEELER. Absolutely. We are working with all of our Federal partners on this. And as I said earlier, this is the most comprehensive multimedia action plan this Agency has ever developed for an emerging chemical of concern like this.

Mr. MCNERNEY. But when you use words like "ever," that is ever developed—

Mr. WHEELER. Forty nine years.

Mr. MCNERNEY [continuing]. And you propose huge cuts, 35–40 percent cuts, how can that be consistent?

Mr. WHEELER. We have not cut our research on PFAS/PFOA and we are moving forward on a number of regulatory fronts, plus we are already enforcing our 70 parts per trillion standard at eight different sites around the country, and we have assisted States in 20,

over two dozen enforcement actions around the country as well. So we are moving forward to clean it up where we find it. We are using groundbreaking GIS modeling to determine where the problems are.

Mr. MCNERNEY. Well, I mean, we will have to see if that is consistent with what your testimony says.

Mr. WHEELER. Absolutely.

Mr. MCNERNEY. Pat Breysse, the director of the Agency for Toxic Substance Disease Registry, also recently testified of the important work his Agency is doing to identify hazards from PFAS. Will you commit to ensuring that all regulatory actions you take on PFAS are sufficient to address the hazards that that Agency has identified?

Mr. WHEELER. Yes. Their number is very different than ours. But yes, we are working closely with ATSDR.

Mr. MCNERNEY. All right, I yield back.

Mr. TONKO. The gentleman yields back. The Chair recognizes the gentlelady from Michigan, Representative Dingell, for 5 minutes, please.

Mrs. DINGELL. Thank you, Mr. Chairman.

I want to find peace, Mr. Wheeler. The issue of fuel economy standards is one that is very complex, and I know you are well-versed in its history and its intricacies just like I am. But I am at a loss, and I am not trying to be hostile. I care about the auto industry, it is still the backbone of the American economy and I am at a loss when it comes to reaching a consensus between everyone.

I know there was a meeting in the Oval Office. I know the President asked EPA and NHTSA to work with all the stakeholders and try to come up with one standard. And it matters. This is an industry that is far more fragile, you probably do understand how fragile it is, than many people realize. And even as we were having a discussion, I keep saying to my colleagues, here, when those Obama standards were set there was an assumption that there would be 30 percent electric vehicles.

And we have a lot of problems and it doesn't help when the President takes shots at EVs, EVs need to be part of that equation. And we are competing in a global marketplace where you have countries, and I think we want to be competitive in the global marketplace, China is telling everybody they have to go with those EVs. And I called Mary Nichols myself right before she left, I think she is just about back, and said, "Am I going on a Don Quixote mission or are you willing to go to the table and sit down?"

Everybody needs this. Everybody wants it, the environmentalists, the autos. You say you are working. Mary is willing to go back to the table. Can we go to the table and get one national standard that will keep a strong competitive auto industry?

Mr. WHEELER. I would love to have a one standard, 50-State solution to this. You know, when Mary Nichols gave us her counter-proposal after three months, she said at the time that, you know, although she was the director of the California Resources Board that the board members had not signed off on it. She said that the incoming governor had not signed off on it. The outgoing governor had not signed off on it. And the attorney general who threatened

to sue us at the time had not signed off on it, and he has already sued us.

There are a lot of politics going on in California over this issue. I would love to have a 50-State solution on this.

Mrs. DINGELL. So I understand those politics. But I also understand, you know, I am not old, but I am seasoned, and I know how tough these issues are, and if we can get everybody back at that table, we need to do it. This industry cannot afford to have two separate standards. We want to stay at the forefront of innovation and technology. That means money needs to be going into R&D, not a court battle that is going to go forever that is going to give this industry uncertainty.

So could I get a commitment from you? Can we try to go back to that table? Mary should be back right about now. Can we do that?

Mr. WHEELER. We are always open to hearing from California on this, but to be frank they did not come forward with a credible offer last fall. We were asking them for weeks, "What is it that you want?" And I think it is important to note that when we are talking about the California waiver we are not talking about the health-based standards. We are only talking about the energy efficiency standard.

Mrs. DINGELL. Well, you know, I mean the environmental advocates and the auto industry are OK with the continuation of the California waiver. Who do you think we are helping by taking it away?

Mr. WHEELER. If we end up having two different standards for the entire country, it is going to create problems across the board.

Mrs. DINGELL. Chaos.

Mr. WHEELER. Chaos, it will. In our proposal California only looked at energy efficiency. Our proposal looks at energy efficiency as well as public safety and under our proposal we estimate 15,000 lives saved. California is only looking at this with one goal in mind and that is energy efficiency and CO<sub>2</sub>. We are looking at it much broader than that including public safety and using real data as far as what American consumers are purchasing today.

Mrs. DINGELL. So I want to continue this, and I am committed because this industry, and this economy, and this country depends on this.

So having said that, I need to ask you one other question because I have 49 seconds left. We have had an EPA lab that started out in 1920 as part of the military, then it went to the Public Health Department, and then it has been yours since EPA was founded. It is on Grosse Ile. It is critical for many things in Michigan, the Great Lakes. A couple of years ago you threatened to close the Ann Arbor lab, the Administrator kept that open and environmentalists, auto industry, everybody said that was critical.

Can you take another look at not closing this Grosse Ile EPA Office, which I have people in my office every day telling me how critical it is to the Great Lakes, emergency cleanups, et cetera? I know you were ready for that question.

Mr. WHEELER. I would certainly take another look at it, but we are trying to consolidate. The Ann Arbor facility is very important.

I have been to Ann Arbor twice now to visit that facility. It is very important.

Mrs. DINGELL. It is important.

Mr. WHEELER. But we have facilities in almost every State, I think 40 States, and we need to be reducing our footprint. Congress, if the appropriations isn't directed—

Mr. TONKO. We need to move on to the next—

Mr. WHEELER. And we are trying to consolidate.

Mrs. DINGELL. Can we keep talking after this? Thank you.

Mr. TONKO. OK, thank you. The gentlelady yields back. We now recognize the gentleman from California, Dr. Ruiz, for 5 minutes, please.

Mr. RUIZ. Thank you, Administrator Wheeler, for being here today. I want to talk to you about a serious threat to the public's health that affects potentially millions of Southern Californians from Riverside County all the way to LA County and Imperial County. The Salton Sea is California's largest inland body of water and it is shrinking. The exposed playa has very fine dust, particulate matter that is contaminated with agricultural runoff and other toxins, that if they get into the air it can easily penetrate the lung-blood barrier. I am a doctor so I can follow the path.

And such exposure is associated with premature death as well as asthma attacks, chronic bronchitis, decreased lung function, and respiratory disease. All of this leads to increased hospitalization, emergency room trips, and doctor visits. In fact, the surrounding community already had the highest pediatric asthma hospitalization rate in the entire State of California. So this pollution, in fact, disproportionately affects the most vulnerable among us, infants, children, seniors, and low-income families. So fine particle pollution is harmful to human health even at very low concentrations.

And it makes sense. We don't want chemically contaminated dust, or particles, or any dust in our blood. The scientific consensus recognized by hundreds of peer review articles and by EPA administrators during both Republican and Democratic administration says that fine particle pollution is a so-called non-threshold pollutant. That means that any level of fine particle pollution exposure can cause harm.

At our December 2017 hearing, then Administrator Pruitt agreed that fine particle pollution was a no-threshold pollutant. Administrator Wheeler, do you agree that fine particle pollution is a non-threshold pollutant?

Mr. WHEELER. I believe most of the science directs us that way, yes—

Mr. RUIZ. So yes, good. Will the EPA officially acknowledge that the presence of fine particulate matter at any threshold is a public health hazard?

Mr. WHEELER. We are currently in the middle of our NAAQS review for PM. It is scheduled to be completed by the end of 2020. CASAC is currently reviewing the PM science that the Agency supplied, and we expect to have a report back from CASAC, so I would like to defer until I—

Mr. RUIZ. Well, you just said that any amount of particle matter and dust especially those with chemicals that gets into our blood is harmful to our health.

Mr. WHEELER. I believe there is still science as far as what is the composition of the particles, whether or not certain compositions have a better—

Mr. RUIZ. Well, I will tell you that composition of any particle that is small enough to enter the alveolar blood barrier is harmful to your health. There is no foreign body that is in our blood that is helpful to our human health.

Mr. WHEELER. I will defer to you on the medicine, but it is my understanding that—

Mr. RUIZ. So, listen, when you consider this, no—

Mr. WHEELER [continuing]. Composition of the PM is important.

Mr. RUIZ. Yes. Know that any foreign body in your blood regardless of the composition—

Mr. WHEELER. I understand that, but some is worse than others.

Mr. RUIZ [continuing]. If it can get into your blood system it is bad for your health. You know that.

Mr. WHEELER. Yes.

Mr. RUIZ. The Clean Power Plan rule includes a policy that particulate matter is a non-threshold pollutant, yet the EPA is in the process of repealing that rule. So consider that rule when, and that part of that rule when, you look at this science as well. So by—

Mr. WHEELER. The Supreme Court stayed that rule.

Mr. RUIZ. Good. Excellent. By repealing the Clean Power Plan, the EPA could potentially for the first time say that any level is safe, so I am glad that the Supreme Court in fact agrees with us.

So let me move on to another issue. And part of the reason that fine particulate matter from the Salton Sea lake bed is so dangerous is because, the sea is partially fed by agricultural runoff and from sources like the New River, one of the dirtiest, most polluted rivers in the country. It contains toxins, wastes, and parts from animal products, and chemical runoff from companies and carcinogens like DDT.

My office was recently contacted by constituents who work as CBP officers stationed at Riverside, Imperial County, who have suffered from respiratory illnesses, skin rashes, symptomatic exposure of toxins, and harmful chemicals. Some have been diagnosed with chemicals. Many came concerned about their future, their health. A childhood friend of mine, Hector Acosta, also concerned about what would happen with him. Will he come down with cancer as well?

They recently wrote a letter requesting your support for an epidemiological study. Will you commit to working with CBP to study the potential hazards of exposure to the New River, including conducting an epidemiological study to ensure that our public safety officers and their families are protected?

Mr. WHEELER. We will have to look into that. I am not sure if that is in EPA or in ATSDR, but we will certainly help you with—

Mr. RUIZ. Great, so will you provide me an answer by June 1st?

Mr. WHEELER. Yes.

Mr. RUIZ. Great. And before I close, I want to submit this GAO study that I recently asked GAO to do regarding EPA's meaningful consultation with tribes regarding Superfund consultation and management. They gave you a set of recommendations. I would



like you to take a look at them and see if you can respond to those recommendations. I would like to submit this for the record.

Mr. TONKO. Without objection.

[The information appears at the conclusion of the hearing.]

Mr. TONKO. OK, we will—thank you. The gentleman yields back. The Chair now recognizes the vice chair of the full committee, the Representative from New York, Representative Yvette Clarke.

Ms. CLARKE. Good morning, Mr. Chairman, Ranking Member, and Administrator Wheeler.

I have some very serious concerns about the EPA's being run by former lobbyists setting the rules for former clients. Your calendars reveal that since joining the Agency you have frequently met with companies you have once represented. I want to be clear, I am concerned about the ethical and possible conflicts of interest because the mission of the EPA is so important to the health and safety of my constituents and the public nationwide.

EPA plays an essential role in safeguarding us and the Agency should not be for sale. Let me focus on just one example, the EPA's Risk Management Planning Program, the so-called or also called RPM, excuse me, RMP. The RMP program offers important protections for workers, first responders, and the communities around high-risk chemical facilities.

Mr. Wheeler, it is my understanding that you are pursuing rule-making to weaken the RMP program at the urging of industry. But so long as the requirements are on the books, will you commit to aggressively enforcing them?

Mr. WHEELER. First of all Congresswoman, yes, absolutely. But we are not moving to weaken the RMP program at all; and I don't know what you are referring to in meeting with former clients. I have not met with any of my former clients under my recusal statements, and I have followed the career advice of the EPA ethics officials, and I am really not sure what you are referring to on that.

Ms. CLARKE. Well, let me—I am not going to get into a back-and-forth. That is something we can discuss. I have a short amount of time.

Mr. WHEELER. But that goes to my personal integrity, so I want to make sure.

Ms. CLARKE. I got you. We will follow up with you on that. More than 9.1 million people live in the vulnerability zones of RMP facilities in my home State of New York, meaning more than half of the State's population is at risk from accidents of those facilities. That is why the Attorney General of New York State recently led a coalition of 12 State attorneys general opposing EPA's proposed rollback of RMP protections.

Your proposed rulemaking would diminish requirements for prevention, consideration of safer alternatives, third-party audits, transparency, coordination with first responders, and more. These common-sense requirements should not be removed. In the past month, the Houston area has seen two large fires at RMP facilities, the ITC Deer Park facility and the KMCO facility in Crosby. Both fires created significant disruptions with shelter-in-place requirements and large plumes of black, toxic smoke.

Mr. Wheeler, are you aware that the Deer Park facility was cited for violations of the RMP program in 2015 and some of those violations stemmed from a lack of proper prevention?

Mr. WHEELER. Yes. And we have been working with the community involved. I do want to point out on the RMP program, last year we had the largest-ever settlement in the history of enforcing of the RMP program, \$150 million settlement.

Ms. CLARKE. Well, I think we should be doing more to prevent disasters, right. That is what that whole protocol is about. Mr. Wheeler, will you commit to strengthening the prevention requirements of the RMP program rather than weakening them?

Mr. WHEELER. I don't believe we are weakening them, Congresswoman.

Ms. CLARKE. So you don't commit to strengthening them?

Mr. WHEELER. We are enforcing them more vigorously—

Ms. CLARKE. You are enforcing them. I am asking whether you would strengthen them.

Mr. WHEELER. We are in the middle of a rulemaking process to reconsider certain provisions of the RMP—

Ms. CLARKE. All right. Let me go on to my next question because clearly you are not interested in strengthening them. Are you aware that the facility also has extensive violations of the Clean Air Act and Clean Water Act? That is the Deer Park facility.

Mr. WHEELER. Yes, I am aware of that.

Ms. CLARKE. OK. I don't think a facility with that record of compliance should be trusted to protect surrounding communities. Will you commit to finalizing an RMP rule that preserves the third-party audit requirements?

Mr. WHEELER. Yes.

Ms. CLARKE. Thank you. I just think weakening a program that protects 9.1 million people in New York, because the regulated industry asks you to, is not your job. As an Administrator of the Environmental Protection Agency, industry may have been there for you before, but you work for the people now and you should be looking out for all of us. I hope that you will reconsider the strengthening of the protections of the RMP program.

With that, Mr. Chairman, I yield back.

Mr. TONKO. The gentlelady yields back. The Chair now recognizes the gentleman from the State of Georgia, Mr. Carter, for 5 minutes, please.

Mr. CARTER. Thank you, Mr. Chairman.

Mr. Wheeler, thank you for being here. It is good to see you. We appreciate you taking time to come and talk to us. I wanted to talk very quickly about the district I represent is the 1st congressional district of Georgia. And we have two major seaports, as you know, the Port of Savannah, the number two container port on the Eastern Seaboard, the Port of Brunswick which is the number two roll-on/roll-off port in the country. Both of these are extremely important, extremely important to the economic well-being of the Southeast United States. The Port of Savannah and Brunswick are two of the major economic engines of the Southeast and it is very important that we keep those going.

One of the things that I have spoken to you about in the past has been the bar pilots that are so very important in escorting the

ships in and out of the harbor and the requirement now that they utilize the Tier 4 engines. Now we have had EPA personnel go out to the manufacturers that make the boats that they are required, that harbor pilots are required to have, and meet with them and they have said, "Look, we cannot meet these requirements," and EPA has agreed. And it is my understanding that through the rule-making process that you are going to correct this.

Can you tell me where we are at right now in the rulemaking process dealing with the Tier 4 engines?

Mr. WHEELER. Yes, we have submitted the rule to OMB and that should be going out for public comment shortly.

Mr. CARTER. Can you give me an idea about how long the OMB process may take, because obviously this is very urgent on our part?

Mr. WHEELER. I am not sure if it is a 30- or 60-day review by OMB, but I will check into that and get back to you, sir.

Mr. CARTER. OK. Well, I appreciate that. This is a step in the right direction, changing the rules, but time is of the essence. I just hope that everyone understands that because it just simply cannot be done. And the Tier 4 engines, I might add, is impacting other areas. We have a strong ag presence in our district as well, and now the farmers are telling us that they actually cannot get the Tier 4 engines onto the tractors and use the type of wheels that they need to use in their process. So I hope that this will be something you will be looking at as well.

Mr. WHEELER. Yes, sir.

Mr. CARTER. Thank you. If we could kind of shift gears now about the Superfund sites. In my district and particularly in one area, we have a county, Glynn County, that has four Superfund sites and it is of major concern. In fact, last year you will remember that I hand-delivered a letter to you about one of them that the Department of Justice and EPA have ruled on, the Terry Creek site in Brunswick, Georgia. It is the Hercules site that the Hercules plant used to be on that. And last September I gave you a letter as I say, asking you to work together with the Department of Justice to address some of the concerns that the local community had about the consent decree and the remediation plans.

Do you know or can you tell me what actions have been taken on the consent decree to alleviate some of the concerns that the community leaders have?

Mr. WHEELER. I believe their concerns have been addressed. And I am also told that that consent decree should be finalized in the next month or so, but I will go back and make sure that their concerns have been addressed.

Mr. CARTER. Do you work with the Department of Justice on this? Whose jurisdiction, who is going to be making the final decision?

Mr. WHEELER. It is a collaborative process between EPA and the Department of Justice on working on the consent decrees for Superfund sites.

Mr. CARTER. OK. I am very concerned also, because two of these sites and in Brunswick and that area, one of them has had this designation of construction complete and that designation has been on there for 20 years. Is that correct? Am I wrong on that?

Mr. WHEELER. It might be. Part of my frustration and why we are putting such an emphasis on getting these Superfund sites cleaned up is because when they are on a national priority list for decades, that means it is not a priority. As I mentioned in my opening statement, we delisted 22 sites last year, the most since 2005. We have made it a priority at the Agency to move these sites, to get them cleaned up and get them cleaned up quickly. Again, if something is on the national priority list for decades, then by definition it is not a priority.

Mr. CARTER. This is, you know, of major concern to this community. I have met with the community leaders and, you know, they have big plans for some of these areas, but they can't. For instance, they are looking to build a school. We can't build a school on a site like this unless we know it has been remediated, unless we know it is safe. I mean that is just irresponsible.

So I hope that I can get your commitment that you will pay particular attention to this. I recognize that it would be unfair to ask you to speak on this specific site that you are probably not prepared for that, but at the same time, I hope that you will take that back and perhaps have your staff get in touch with me.

Mr. WHEELER. Happy to do that, sir. Thank you.

Mr. CARTER. OK. Finally, I want to talk about biobutanol. That is something that is very important to us on the Coast because as you know the impact that that particular fuel has on marine engines is less severe than some of the other fuels that are out there. And I know that the Agency has been grappling with proposal on year-around E15, but what consumer protections can we expect you to see for boaters and other small engine operators to prevent misfuelling and educate them on alternatives like biobutanol?

Mr. WHEELER. Well, we do work with the gasoline stations, the oil companies to make sure that it is properly labeled and to try to make sure through education efforts, and to make sure that when you have boats that are labeled correctly, and that people are not putting the wrong fuel into their vehicles or boats.

Mr. CARTER. OK. All right, I have got just about a minute left. Just to recap, Mr. Wheeler, Tier 4 engines, Superfund sites, biobutanol, OK. And I am going to yield the remainder of my time to Ranking Member Shimkus.

Mr. SHIMKUS. I thank my colleague. And I will just be brief. I was going to raise a point of order, but since I am just going to get this last minute, Mr. Chairman, and I know there is the art of legal language. I just want us to be careful to use that to make accusations that we have no proven connection to, no stories, no legal actions.

Administrator Wheeler has served 22 of his 30 years in the public service, in the EPA Chemical Office for 5 years, serving in the EPW and now it is on the Senate side so we could attack you for that. But 15 years, and then in private practice for 8 and then here for 2 years. So I would caution my colleagues and I will be the first when there are real things to point to it is a fair game, but innuendos I would be careful of. And thank you, Mr. Chairman.

Mr. TONKO. You are welcome.

Let's now move to the gentleman from Maryland, Representative Sarbanes. You have 5 minutes, please.

Mr. SARBANES. Thank you, Mr. Chairman, and thanks for the opportunity to waive on to the committee today.

Administrator Wheeler, I wanted to talk about the Chesapeake Bay. You won't be surprised to hear that, being a Representative from Maryland and having been a champion of the Bay, really, since I was a little kid crabbing on the Nanticoke River on the Eastern Shore, but having that opportunity obviously since I came to Congress. And I am extremely distressed at this continued run that the administration is taking at the funding for the Chesapeake Bay in many different respects. I will focus primarily today on the Chesapeake Bay Program. As you know, the President in his budget 2 years ago proposed to completely zero-out funding for the Chesapeake Bay Program.

Last year, he proposed a 90 percent cut to the funding for the Chesapeake Bay Program at EPA and has done the same thing with the budget proposal this year. And obviously that would have a huge impact on our restoration efforts for the Chesapeake Bay. There are nearly 50 Members of Congress here whose districts intersect with the Chesapeake Bay watershed. There are 17 million residents of the Bay watershed, 64,000 square miles within the watershed. And the resource that that represents, not just as a national and a natural treasure, but in terms of the economic engine that it represents for Maryland and for the region, really cannot be overstated.

So the proposal to come again with this kind of cut, and I will as you know over the last 2 years in response to that there has been a bipartisan pushback on the part of Members of Congress, Republicans and Democrats, who understand how valuable the program is to all of the States involved, but really to our country overall.

So I wanted to ask you to comment on these cuts. I know that there were similar proposed draconian cuts made with respect to funding of the Great Lakes restoration efforts. And since the budget has come down, you and the President have now kind of reversed the position on the Great Lakes and are indicating that the funding will be restored as you are interested in having Congress restore that funding, but we haven't had the same kind of declaration or commitment made with respect to the Chesapeake Bay.

So I would ask you to comment on that, please.

Mr. WHEELER. Certainly, Congressman. And first of all, I live in a Chesapeake Resource Protection Area. I am fully committed to the Bay and making sure that the health of the Bay continues to improve. The Geographic Program areas is just one area of funding that we use to help restore the Chesapeake Bay. We have other Clean Water Act programs as well, the source water protection programs authorized under the Safe Drinking Water Act to protect the watershed and including the National Pollutant Discharge Elimination System program, water quality trading and also our work involving the harmful algae blooms.

Also last month, I signed a WIFIA loan for the City of Baltimore for \$202 million that will go a long ways to helping to clean up the Bay. So we have a number of different programs aside from the geographic specific programs that we can use, and we do use, to not only help the Chesapeake Bay, but the Great Lakes, Puget Sound,

a number of watersheds all around the country. We are not limited to our programs to the geographic programs. We have a lot of other tools at our disposal.

Mr. SARBANES. Well, I certainly appreciate you having those other tools and maintaining commitment to them is really important. But the Bay program that the EPA funds and supports is really critical because it is a leveraging program and the amount of expertise that has been assembled in the program with respect to restoring the Chesapeake is tremendous over the last few years. You are going to, I think, encounter the same kind of response you saw from Congress over the last couple of years with respect to that proposed cut.

And I would just encourage you to do the kind of reevaluation that we have seen with respect to the Great Lakes restoration efforts as you are looking at the Chesapeake Bay, because I would think that the administration would want to be on the correct side of this issue in terms of maintaining a critical momentum with respect to the restoration that has happened and largely because of that leveraging resource that has been represented by the Chesapeake Bay Program.

So we urge you, we beseech you to take a position of restoring that funding. You can rest assured that that is the position that we are going to assemble here in Congress on a bipartisan basis. And with that, I yield back my time.

Mr. WHEELER. We will utilize all the funds that Congress gives us for the Bay.

Mr. TONKO. The gentleman yields back. The Chair now recognizes the gentleman from Iowa. Representative, you have 5 minutes, please.

Mr. LOEBSACK. Thank you, Mr. Chairman. Thank you for allowing me to waive on to this subcommittee. And I admire the clairvoyance of my friend, Mr. Shimkus. I am indeed going to ask you about the Renewable Fuel Standard, Mr. Wheeler. I am going to get right to my questions.

Mr. Wheeler, have the 39 small refinery waiver requests that were at DOE last week been sent to you folks at EPA yet?

Mr. WHEELER. I don't believe the formal waiver requests have been sent. We have received a list from the Department of Energy.

Mr. LOEBSACK. Do you expect to grant any or all of these waivers going forward?

Mr. WHEELER. We will certainly take the advice of Department of Energy into account. In the past we have taken their advice in all but one instance.

Mr. LOEBSACK. Now looking forward, do you expect that you will have to grant any small refinery waivers for 2019, or what about 2020?

Mr. WHEELER. Well, it would depend on the data each year and whether or not the small refineries have a hardship based upon the information in the data. You know, part of that is the price of RIN.

Mr. LOEBSACK. And this has been hugely controversial as you know in corn country because of the waivers. What is clear to me, unfortunately, is that this particular EPA under your predecessor, hopefully that won't be the case under you, is committed to granting small refinery waivers, and every year since 2013 we have seen

these waivers. But the explosion the last few years has been prolific. And it appears to the American people that if a refinery applies for a waiver, it basically is guaranteed to get one, unfortunately.

Just to be perfectly clear, Mr. Administrator, when you and your predecessor waive over 2.6 billion gallons of biofuels and counting, you are harming the biofuels industry, an industry that as you know is an economic driver in districts like mine in Iowa and throughout the Midwest, throughout corn country, generally. The EPA has failed to do anything to reallocate the demand destruction.

Your Agency has expressly refused to take comments on a possible reallocation on the 2019–2020 RVO. You have refused to acknowledge the likelihood of waivers and rulemaking when it is clear the refiners will continue to submit applications and you all will keep granting them especially under this administration, one that has prolifically, I have to say, handed out over 54 waivers to the oil industry so far.

What is the Agency doing, if anything, to restore the 2.6 billion gallons of lost biofuel demand?

Mr. WHEELER. We are looking into that. But I would point out that when the Agency was not issuing the waivers, we were sued three times and we lost all three cases.

So we—

Mr. LOEBSACK. Well, is there any statutory prohibition on reallocating the waive volumes?

Mr. WHEELER. After we have set the RVOs for a year we can't go back and modify the RVO numbers, and the waiver requests come in after the RVO numbers are set.

Mr. LOEBSACK. Would it be easier to reallocate the gallons if you were able to determine the so-called hardship earlier in the compliance year? Do you have the ability to do that?

Mr. WHEELER. Yes, we would have the ability to do that, but again we don't receive the request for the waivers until after the RVOs are set.

Mr. LOEBSACK. If you got them done earlier in the year, could you then potentially use the RVO to account for these waivers even as an estimate?

Mr. WHEELER. It is not a factor of us getting them done earlier because we don't receive them from the small refineries.

Mr. LOEBSACK. And I have just one final question, Mr. Wheeler, and it is a yes or no question. Do you acknowledge that when ethanol and biodiesel plants suffer when you grant small refinery exemptions that the farmers who grow the corn and the soybeans for ethanol and biodiesel are harmed as well?

Mr. WHEELER. Yes, they are. But that is why we are also moving forward to grant the E15 year-round to provide greater markets for the ethanol.

Mr. LOEBSACK. I certainly hope so too, and do appreciate that.

Mr. WHEELER. We hope to have that finished in time for the summer driving season.

Mr. LOEBSACK. And we are looking forward to that because I think the best way to deal with that issue is through regulation obviously.

Mr. Chairman, this EPA I believe has been egregiously undermining the biofuels industry and hurting farmers across the country. This is what I hear from farmers every time I talk to them, quite honestly. If these actions continue, they will do reparable harm to the economy in my State and other States especially in corn and soybean country. I am going to continue to exert my oversight role as I have today, and certainly I hope that this administration looks more favorably on our corn growers, our soybean growers, and much less favorably on big oil going forward.

So thank you, and I do yield back. Thank you.

Mr. TONKO. Representative Loeb sack yields back. The Chair now recognizes the gentleman from Arizona, Representative O'Halleran, for 5 minutes, please.

Mr. O'HALLERAN. Thank you, Mr. Chairman, and thank you for allowing me to waiver in.

I want to discuss, Mr. Wheeler, my concerns about the pace of cleanup of the over 520 uranium mine sites on the Navajo Nation reservation and the available EPA resources to resolve this crisis. This crisis was created by the Federal Government. The Navajo Nation had nothing to do with this process. You will see a map on the screen identifying the sites and most of them are nearby waterways or washes.

While these mines are no longer operating, the lingering high levels of radiation as admitted to by the EPA, are still causing a devastating effect to the health of Navajo people in my district. Remediation of these sites to reduce toxic exposures and ensure access to safe drinking water is moving too slowly.

[Slide.]

Mr. O'HALLERAN. In fact, the monitoring systems are not even in place right now that is a USGS issue, in part, because too few resources such as staff and funding are being devoted to completing these difficult works. I cannot see how proposals for deep cuts in funding and staffing can maintain progress, let alone increase its pace. The Navajo people already have waited decades for help in cleaning up this dangerous pollution and they deserve a resolution.

Administrator Wheeler, how does the EPA justify its 15 percent proposed cut, around \$115 million, to the Superfund program for hazardous site cleanups for fiscal year 2020?

Mr. WHEELER. Congressman, we are trying to balance a number of competing interests within the EPA budget to try to reduce the overall Federal expenditures, but one thing we are doing on the Superfund program is going after the responsible parties at a higher level. We had more recoveries last year from PRPs than previous years which will hopefully free up more Superfund dollars to address other sites such as the Navajo Nation.

Mr. O'HALLERAN. In this case I believe that waiting for that time is costing people's lives, and children's quality of life, and their potential for life, and death issues. But I also know that there is Superfund money there and you haven't been using it appropriately. After congressional pressure years ago, it seemed like progress was being made by the EPA in the creation of five-year plans for uranium mine cleanups which EPA released in '08 and 2014.



Did the EPA meet the goals it set for itself in this latest five-year plan which recently ended in 2018, and was enough budgeted to fulfill these goals?

Mr. WHEELER. If you don't mind, sir, I would like to respond for the record on that question.

Mr. O'HALLERAN. OK. Further, the EPA Inspector General's Office reported in August of last year that EPA had not finished developing in the prioritization methodology for the 54 sites included in the settlements as of June 2018.

Mr. Chairman, I would like to submit for the record the Inspector General's report on this issue, Report Number 18P0233.

Mr. TONKO. Without objection.

[The information appears at the conclusion of the hearing.]

Mr. O'HALLERAN. Also in this report, EPA Regions 6 and 9 noted that they intend to follow through with their site cleanup contaminants and stay on schedule, but that the task completion dates are subject to available resources staffing and that both offices were operating with too few employees. In fact, both 5-year plan there was no money requested from the EPA in addition to your regular budget and, frankly, the 10-year plan that is coming up does not request it either.

Frankly, I am disheartened that the funds currently available for mine cleanup, so few sites have been cleaned to date even where funds are available to do the work as with the settlement fund for the Tronox mines. It seems there are still too few resources at EPA to move this work forward and many other projects that have been discussed here today.

I do appreciate the EPA's process for site evaluation and tribal consultation, but the sense of urgency towards this crisis appears to be lacking, in my view. In fact, I think it is disrespectful to the people that are impacted by this and the responsibility of Federal Government is not being made by this administration or prior.

Mr. Chairman, with this information presented I believe that we, as a committee, ought to request the EPA come in for a thorough follow-up briefing on this matter.

Mr. Wheeler, will you commit to an Agency briefing before this committee on the status of the uranium mine cleanups?

Mr. WHEELER. Yes, I would.

Mr. O'HALLERAN. I realize this is a complex and difficult task, but we should be able to make much better progress than we have been. Almost 80 years is way too long to have the Navajo Nation, the water resources of the Navajo Nation, and the Colorado River potentially impacted because of our negligence. And, Mr. Chairman, I yield back.

Mr. TONKO. The gentleman yields back.

Administrator Wheeler, on the fuel economy proposal I want to note that EPA's internal analysis corrected many flaws in the modeling underlying the proposed rule. And after doing so, EPA career staff concluded that instead of saving lives, the proposed rule would actually increase fatalities.

And also again we thank you for appearing before the subcommittee today. And I know that you have made some comments—

Mr. SHIMKUS. Mr. Chairman?

Mr. TONKO. Yes, sir.

Mr. SHIMKUS. Can I see the cite for that analysis that you just read?

Mr. TONKO. It is in the administrative record.

Mr. WHEELER. I am not familiar with that, but I would like—

Mr. SHIMKUS. Thank you.

Mr. WHEELER [continuing]. To respond for the record on that. I am not familiar with that information.

Mr. TONKO. So again we thank you for appearing before the subcommittee today. I know you made some commitments to respond to Members' requests today and I hope we can receive those responses along with answers to questions for the record in a reasonable amount of time, including confirmation that the TSCA risk evaluation was sent to the National Academies of Science.

I would also mention a letter—I would be remiss if I didn't mention this one that we sent a letter to EPA with Representatives Dingell, Lujan, and Welch back in December on PFAS chemicals and the TSCA program. I hope we can receive that information in the near future because this committee intends to work on PFAS this year. The 70 parts per trillion health advisory level is not a standard and it is not enforceable.

So I hope EPA will provide us with the assistance necessary for us to move forward with all available information. And in regard to that December letter, might I be more specific and direct since you have had that for months, I would ask that we receive a detailed response within 7 working days.

Mr. WHEELER. We will give you a response, yes.

Mr. TONKO. Within 7 working days?

Mr. WHEELER. I will have to check with the staff on what—

Mr. SHIMKUS. Mr. Chairman, are we going into a second round? Is that where we are headed?

Mr. TONKO. No. I just wanted a response to our letter of December.

Mr. SHIMKUS. Thank you.

Mr. TONKO. And I think we are owed a response and I would appreciate a 7-day time frame, working day time frame by which to respond.

Mr. WHEELER. I hear you and I need to check on the status of that response. We have responded. I believe we have received eight committee letters. We have responded to seven of them.

Mr. TONKO. This is a December letter, Mr. Administrator, so I don't think we are being unfair, 7 working days?

Mr. WHEELER. I will have to see where we are on the response. We will get it to you—

Mr. TONKO. Can you give us an update in 7 working days?

Mr. WHEELER. Yes, sir. We—

Mr. SHIMKUS. Mr. Chairman, are we going to go to a second round, because—

Mr. TONKO. We are not going to a second round. I just want to get a commitment to get a response to a letter from December.

Mr. SHIMKUS. Well, it is five and five, so.

Mr. TONKO. OK. We have a number of documents that we ask to be for unanimous consent to enter into the record. They include a fax sheet from the Colorado Oil and Gas Association on the

State's air quality advancements; an opinion letter submitted to the Gainesville Sun titled, "Attacks on science are a threat to our water"; a February 2019 report by the GAO entitled, "Superfund: EPA Should Improve the Reliability of Data on National Priorities List Sites Affecting Indian Tribes"; a letter from various public health groups entitled, "Climate Change is a Health Emergency," a declaration on climate change and health; an EPA Inspector General report on uranium mine sites on Navajo lands from August 2018; and finally, a map from the EPA Inspector General report. Again, request unanimous consent to enter the following into the record.

Mr. SHIMKUS. Without objection, Mr. Chairman.

Mr. TONKO. So moved.

[The information appears at the conclusion of the hearing.]

Mr. TONKO. And so with that, again we thank you, Administrator Wheeler. I remind Members that pursuant to committee rules they have 10 business days to submit additional questions for the record to be answered by our witness.

Mr. Wheeler, I ask you to respond promptly to any such questions that you may receive. At this time, the subcommittee is adjourned.

[Whereupon, at 12:24 p.m., the subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

### **Prepared Statement of Hon. Greg Walden**

Welcome to the House Energy and Commerce Committee, Mr. Administrator. I know your years as a Senate staffer make you no stranger to this real estate, but it's good to see you here in the Peoples' House. You will be getting a question on what is the greatest committee on Capitol Hill and I expect that you will answer correctly.

As you know, today we are going to focus not just on the EPA's policy and budget priorities, but also the management and operations of the Agency.

Last year, give or take a couple weeks, your predecessor was here amid unrelated allegations that undercut what I and many of my colleagues considered really strong work at the Agency to return it to its core mission of protecting air, soil, and water - and doing so according to the dictates of Congress. I appreciate the commitment of you, Mr. Administrator, this Administration, and its budget to three goals at the Agency: Core Mission, Cooperative Federalism, and Rule of Law and Process.

Too often, people reflexively fall into the trap of believing a clean environment is incompatible with economic growth and job creation. I share your view, Mr. Administrator, that we can and must have both. We need common sense regulation that protects the public, actually cleans up the environment, and does so in a way that doesn't unnecessarily suffocate the economy.

My colleagues are familiar with my desired climate change solutions - innovation, preparation, conservation and adaptation - but suffice it to say, I believe the EPA should focus on innovative problem solving and partnerships with the states, the private sector, and other stakeholders that leverage their resources and expertise.

To truly succeed we need stronger local, state, federal and private partnerships where we can team up and leverage all available resources to accomplish the goals of cleaner water, air and soil.

It also never hurts to work hard to root out unnecessary red-tape, to provide greater regulatory transparency so that stakeholders, including the regulated community, better know what is expected of them, and to promote prompt, even, and fair enforcement of the law.

Before closing, I would be remiss if I did not mention two things--first, I am incredibly appreciative of the work of the EPA professionals to reinvigorate the Superfund program, and specifically to accelerate the cleanup of the Willamette River at the Portland Harbor. This is important to my state.

Second, I want to thank the Administrator for his leadership in moving to repeal the previous administration's "waters of the United States" (WOTUS) rule, and his prioritization of

This EPA's new proposal on the definition of the "waters of the United States" incorporates the input of the farmers, ranchers, and property owners who were most burdened under the old rule. As a result, it helps make sure the federal government is not meddling in things like irrigation ditches.

Our Oregon farm and ranch families care deeply about stewarding their land and water resources, so they are available for generations to come. We can improve America's water quality and ensure we are supporting America's farmers and ranchers. These are not mutually exclusive principles. And I am grateful that Administrator Wheeler and this Administration's EPA recognized that fact and acted upon it regarding this important issue.

Mr. Administrator, I hope that after today you will continue to engage with us as a partner and co-equal branch of government. I look forward to our discussion today about the Agency's budget and EPA's direction now and into the future.

I yield back the remainder of my time.

## COGA FACT SHEET Air Quality Advancements

Protecting the air we breathe is one of Colorado's oil and natural gas industry's highest priorities. This commitment to preserving the state's air quality has resulted in methane emissions declining by 45% between 2011 and 2017, even as production has quadrupled.<sup>1</sup> In fact, the Regional Air Quality Council (RAQC) and the Colorado Department of Health and Environment (CDPHE) found that "new regulations and advancements in technology" have resulted in significantly reducing emissions.<sup>2</sup>

Colorado has led the nation in creating some of the most stringent air regulations in the U.S. In 2014, the state was the first to:

- Regulate methane emissions from oil and natural gas production, estimated to reduce more than 60,000 tons of methane emissions per year.
- Implement the most comprehensive leak detection and repair program for oil and natural gas facilities in the country.
- Expand control and inspection requirements for storage tanks to ensure tank emissions are captured and routed to the required control devices.<sup>3</sup>

### Examples of Reducing Emissions Sources

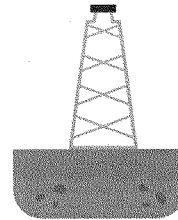
- Use of electric-powered drilling rigs instead of diesel-powered rigs to eliminate source emissions.
- Electric power used to run production facilities throughout the life of the well where feasible.
- Pipelines instead of trucks to transport oil and water, reducing site emissions and eliminating on average 40,000 truck trips and millions of truck miles per pad over 30 years.
- Use of closed-loop systems that are airtight and designed to reduce emissions.
- Removal and reclamation of thousands of legacy wells and facilities, removing older technology and emission sources.

### Inspection & Monitoring Programs

- Regular inspections and recordkeeping throughout the life of the well.
- Consistently performing Leak Detection and Repair (LDAR) inspections using infrared cameras that detect emissions invisible to the human eye. Since 2014, when Colorado began LDAR monitoring, the industry has carried out nearly 1.5 million of these inspections across the state.<sup>4</sup>

### Engineering Improvement Examples

- Use of low bleed pneumatic controllers (this releases significantly less methane into the air).
- Internal Floating Roof (IFR) tanks for control and storage of pressurized oil at gathering facilities (this provides minimum vapor loss into the environment).
- Vapor capture technology applied at some pad facilities.
- Closed-loop designs that minimize potential emission sources.

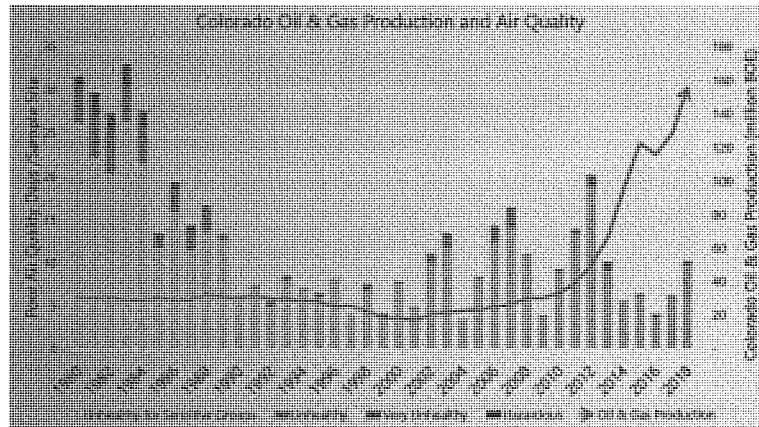


Updated: 3.4.2019

## COGA FACT SHEET Air Quality Advancements

### Improving Air Quality While Production Soars

Technical innovation and strict regulations resulted in Colorado experiencing fewer poor air quality days in 2018 than at any other time in the past 40 years – all while oil and natural gas production in the state increased by a magnitude of 10.<sup>5</sup>



### Additional Resources & Information

<sup>1</sup> CDPHE: [https://www.colorado.gov/airquality/inv\\_maps.aspx](https://www.colorado.gov/airquality/inv_maps.aspx)

<sup>2</sup> CDPHE/RAQC: [https://raqc.egnyte.com/dl/Kk5i5AclAm/TSD\\_2011-2017\\_Oil%26GasEI.pdf](https://raqc.egnyte.com/dl/Kk5i5AclAm/TSD_2011-2017_Oil%26GasEI.pdf)

<sup>3</sup> CDPHE: Air Quality Control Commission, Reg. 7

<sup>4</sup> CDPHE: <https://www.colorado.gov/pacific/cdphe/air/oil-and-gas-compliance>, accessed January 29, 2019

<sup>5</sup> US Environmental Protection Agency. Air Quality System Data Mart: <http://www.epa.gov/ttn/airs/aqsdatamart>

<sup>6</sup> Colorado Oil and Gas Conservation Commission: <http://cogcc.state.co.us/data.html#/cogls>

For More Oil & Natural Gas Industry Informational Fact Sheets:  
[www.coga.org/energy-education/factsheet](http://www.coga.org/energy-education/factsheet)

Updated: 3.4.2019




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 Opinion

## Letter: Attacks on science are a threat our water

Posted Mar 12, 2019 at 12:01 AM

A systematic pattern of undermining science occurring at the federal level is playing out in our community, impacting local constituents' health and safety, the quality of our drinking water, the quality of our lakes and the estuaries where we have seen red blooms as well as green algae epidemics.

There is a critical need for oversight of science in key federal agencies. Sidelining science, EPA leaders continuing to stack science advisory groups, hollowing out agency positions for monitoring and enforcement, rolling back pesticide regulations and stifling the ability of scientists to communicate are having very real negative impacts here in Polk County.

Vulnerable communities who face disproportionate burdens of health and environmental injustices are becoming even more unsafe as already insufficient protections are rolled back. This was evident by the study conducted on Landia.

The attacks on science, and accountability of agencies serving the public, are a bipartisan issue, affecting everyone. The agencies need to ensure the rules are implemented that protect our community's health from toxic pesticides in our water.

Rep. Darren Soto, a champion of environmental issues, should hold EPA Administrator Andrew Wheeler accountable to protecting our community's precious waters.

Deepthi K. Weerasinghe Ph.D., Winter Haven





## Climate Change is a Health Emergency

### *A Declaration on Climate Change and Health*

2019

As leading public health, environmental health, patient advocacy, healthcare, nursing and medical organizations, we declare climate change a health emergency and call for immediate action to protect the public's health from the current and future impacts of climate change. Our organizations agree that:

- The health impacts of climate change demand **immediate action**.
- The **science is clear**; communities across the nation are **experiencing the health impacts** of climate change, including:
  - Enhanced conditions for **ozone** and **particulate** air pollution, linked to asthma attacks, cardiovascular disease and premature death;
  - **Extreme weather patterns**, such as **heat** and **severe storms** that destabilize communities and reduce access to essential healthcare;
  - **Wildfires** and dangerous wildfire smoke that spreads for thousands of miles;
  - Increased **vector-borne diseases** by expanding seasons and geographic ranges for ticks, mosquitoes and other disease-carrying insects; and
  - Longer and more intense allergy seasons.
- Those **most at risk** – including children, seniors, pregnant women, low-income communities, some communities of color, people with disabilities and people with chronic disease – disproportionately bear the health impacts of climate change.

- Urgent action is needed to address climate change by **cleaning up** major sources of carbon pollution and other greenhouse gases, including power plants, cars, trucks and other mobile sources. These policies must:
  - Adopt science-based targets to prevent climate change above 1.5 C;
  - Maximize benefits to health, reducing carbon and methane pollution at the same time that they reduce other dangerous emissions from polluting sources;
  - Ensure pollution is cleaned up in all communities, including those near polluting sources that have historically borne a disproportionate burden from air pollution; and
  - Leave the Clean Air Act fully in place. Any policy to address climate change must not weaken or delay the Clean Air Act or the authority that it gives EPA to reduce carbon emissions.
- Communities must also have the tools and resources to **identify, prepare for and adapt to the unique health impacts** of climate change in their communities.
  - Our public and environmental health systems must have adequate resources to protect communities by identifying, preparing for and responding to the health impacts of climate change.
  - We must ensure our community leaders can adequately protect those whose health is most at risk, and provide access to uninterrupted, quality healthcare during and after disasters.
- **We call on President Trump, EPA Administrator Andrew Wheeler, and members of Congress** to heed the clear scientific evidence and take steps now to reduce pollution that drives climate change and harms health.
- The public health, environmental health, patient advocacy, healthcare, nursing and medical community are **united in our efforts to combat climate change and to protect the public's health from current and future climate impacts.**

Signed

Alliance of Nurses for Healthy Environments  
 American Academy of Pediatrics  
 American College of Physicians  
 American Lung Association  
 American Public Health Association  
 Asthma and Allergy Foundation of America  
 Climate for Health  
 National Environmental Health Association  
 National Medical Association  
 Physicians for Social Responsibility  
 Trust for America's Health



U.S. Environmental Protection Agency  
Office of Inspector General

18-P-0233  
August 22, 2018

## At a Glance

### Why We Did This Review

We conducted this review to determine whether the U.S. Environmental Protection Agency (EPA) had a method for prioritizing cleanup of the approximately 50 abandoned uranium mine (AUM) sites on or near Navajo Nation lands covered under a special account established in 2015 totaling approximately \$1 billion; and whether the EPA has a resource allocation methodology for the special account funds that accounts for estimated cleanup cost, timeframe for cleanup, and scope of cleanup for the 50 sites.

Health effects from uranium exposure can include impacts to autoimmune and reproductive functions, high blood pressure, kidney or lung damage, and bone cancer.

This report addresses the following:

- *Cleaning up and revitalizing land*

Send all inquiries to our public affairs office at (202) 566-2391 or visit [www.epa.gov/oig](http://www.epa.gov/oig)

Listing of [OIG reports](#).

### *EPA Needs to Finish Prioritization and Resource Allocation Methodologies for Abandoned Uranium Mine Sites on or Near Navajo Lands*

#### What We Found

The EPA has taken steps to develop a prioritization methodology for cleaning up AUM sites on or near Navajo Nation lands that are part of a 2015 settlement with a chemical company, Tronox Incorporated. In conjunction with Tronox AUM cleanup stakeholders, the EPA has developed a system for identifying immediate risks and, where necessary, has taken the removal actions needed. The EPA has been following the National Contingency Plan for assigning risk to the sites and is gathering the data needed to complete prioritization for all Tronox AUM sites covered by the settlement. The EPA is tracking the estimated cleanup costs, timeframe for cleanup, and scope of cleanup for some of the Tronox AUM sites where work has already been conducted. After the prioritization methodology is developed, the EPA will be able to develop a resource allocation methodology for the Tronox AUM sites based on estimated cleanup costs, timeframe for cleanup and scope of cleanup.

Site prioritization will aid EPA-initiated actions where there is imminent danger at numerous sites in the same area.

Regions 6 and 9 have agreed on a timeline to complete the key activities necessary to finalize their prioritization methodology. It is critical that the EPA meet its milestones, including by the end of calendar year 2020, that EPA finalize the prioritization of Tronox AUM sites. Also, by the end of calendar year 2021, the EPA has agreed to complete development and implementation of the resource allocation methodology following the cost analysis of the preferred remedies. The regions' efforts will help result in the effective use of the Tronox special account and will help provide continued protection of human health and the environment.

#### Recommendations and Planned Agency Corrective Actions

We recommend that the Region 6 and 9 Regional Administrators complete the necessary removal site evaluations and engineering evaluations/cost analyses; and fully develop and implement prioritization and resource allocation methodologies for the Tronox AUM sites on or near Navajo Nation lands. The agency agreed with the recommendations and corrective actions are pending.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

August 22, 2018

**MEMORANDUM**

**SUBJECT:** EPA Needs to Finish Prioritization and Resource Allocation Methodologies for Abandoned Uranium Mine Sites on or Near Navajo Lands  
Report No. 18-P-0233

**FROM:** Arthur A. Elkins Jr.

A handwritten signature in dark ink, appearing to read "Arthur A. Elkins Jr.".

**TO:** Anne L. Idsal, Regional Administrator  
Region 6

Mike Stoker, Regional Administrator  
Region 9

This is our report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency. The project number for this audit was OPE-FY17-0023. This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

**Action Required**

In accordance with EPA Manual 2750, your office provided acceptable corrective actions and milestone dates in response to OIG recommendations. All recommendations are resolved and no final response to this report is required. However, if you submit a response, it will be posted on the OIG's website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

We will post this report to our website at [www.epa.gov/oig](http://www.epa.gov/oig).

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## Purpose

The purpose of this audit was to determine whether the U.S. Environmental Protection Agency (EPA) has a method for prioritizing cleanup of the 50 abandoned uranium mine (AUM) sites<sup>1</sup> on or near Navajo Nation lands covered under a special account established in 2015 totaling approximately \$1 billion; and whether the EPA has a resource allocation methodology for the special account funds that accounts for estimated cleanup costs, timeframe for cleanup, and scope of cleanup for the 50 sites.

## Background

The Navajo Nation covers over 27,000 square miles in portions of three states: Arizona, New Mexico and Utah. There has been widespread uranium mining on Navajo Nation lands, beginning in the early 1900s. Peak uranium mining occurred between the 1940s and 1960s in support of the U.S. government's defense programs. Substantial amounts of land throughout the Navajo Nation were disturbed by surface and underground mining. Most uranium mining activities on Navajo Nation lands ended in 1968. According to the EPA, mines were operational until the 1980s but the legacy of contamination from the AUMs continues.

### *Tronox Settlement Agreement*

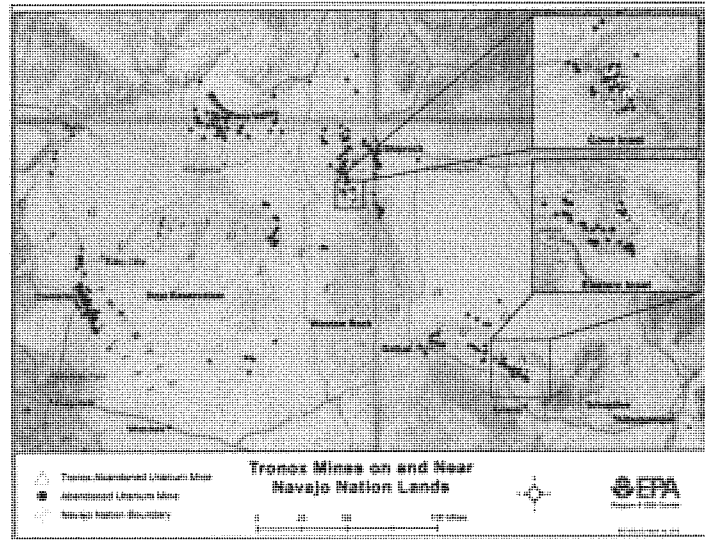


Tronox Mesa V Shaft in Arizona.  
(EPA photo)

On January 21, 2015, the EPA recovered approximately \$1 billion from a chemical company, Tronox Incorporated, in a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) settlement to address its liability for the activity of a predecessor company, Kerr McGee Corporation, which operated approximately 50 mines on or near Navajo Nation lands. The approximately \$1 billion in funds the EPA received for the cleanup at the about 50 Navajo area uranium mines has been deposited into an EPA Superfund special account. In accordance with CERCLA Section 122(b)(3), special accounts are site-specific, interest-bearing sub-accounts housed within the EPA's Hazardous Substance Superfund Trust Fund. Charges to a special account must be consistent

with the terms of the settlement pursuant to which the funds are received. Special account funds may be used for a wide range of site-specific CERCLA response actions.

<sup>1</sup> Subsequent to our issuance of the notification memorandum, we found that there were over 50 mines included in the settlement.



Source: EPA Region 9.

Tronox special account funds, designated for specified uranium mine sites in or near Navajo Nation territory, can be used to support activities related to the assessment and cleanup at the approximately 50 mines and contamination caused by the mines. Examples of these activities include:

- Inform and involve the community in the CERCLA response.
- Investigate the nature and extent of the contamination in water, soil, sediment and air.
- Install fences to control access and display signs to warn people about dangerous areas.
- Protect cultural and biological resources in the mine areas.
- Construct access roads to the mines for cleanup operations.
- Close mine openings and address other physical hazards.
- Conduct removal and cleanup activities.

#### ***Impacts on Human Health and Environment from Uranium Contamination***

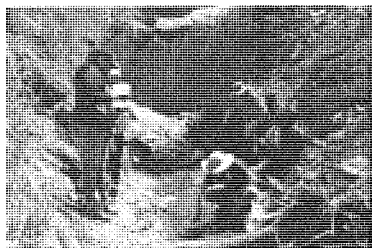
Contact with uranium or radiation from AUMs can come from living in a home built with material from a mine or mill site, or from drinking contaminated water. Health effects from uranium exposure can include impacts to autoimmune and reproductive functions, high blood pressure, kidney or lung damage, and bone

cancer. For example, at high concentrations, uranium has a toxic, chemical effect, and people have developed kidney disease drinking highly contaminated water for long periods. In 2001, the Navajo Nation issued a health advisory recommending that people drink water from regulated safe drinking water sources that are tested routinely to ensure their safety.

Uranium contamination can also impact the environment. Mining practices at AUMs often disturbed the soils, thus making them less stable and more susceptible to erosion. Soils disturbed by mining are also likely to support less vegetation, or may support a new species mix due to changes in soil composition. In the air, uranium exists as dust. Very small dust-like particles of uranium fall onto surface water, plant surfaces and soil either by themselves or during rainfall.

### ***Initial Work to Assess Abandoned Uranium Mines***

In 2002, the EPA used its Hazard Ranking System<sup>2</sup> to initially assess the AUM sites based on a limited subset of the locational-distance criteria in the Hazard Ranking System. It does not include the complete set of criteria and factors built into the full Hazard Ranking System model. The scoring is not intended to identify actual risks, but rather to identify and prioritize areas for future investigation and response decisions. The EPA conducted its work using the



An EPA contractor and college interns collecting water and sediment samples in the Arizona Cove Wash in April 2017. (EPA photo)

National Contingency Plan as its criteria. The National Contingency Plan provides the framework for the EPA to address cleanup at the AUM sites, take actions at sites where there is imminent danger, and gather the data needed to complete prioritization of all Tronox sites.

In June 2005, the Navajo AUM Project<sup>3</sup> initiated a series of reports to document preliminary scoring results for AUMs in the six AUM regions in the Navajo Nation. For the first 5 years, the agencies involved focused on collecting data; identifying the most imminent risks; and addressing contaminated structures, water supplies, mills, dumps and mines

with the highest levels of radiation. During that time, more information was discovered about the scope of the problem and the work needed to be performed. A second 5-year plan, completed in 2013, outlined a multi-agency and multidisciplinary approach to assessing the sites to aid in the coordination of addressing cleanup activities at the sites.

<sup>2</sup> The Hazard Ranking System is the principal mechanism that the EPA uses to place uncontrolled waste sites on the National Priorities List. It is a numerically based screening system that uses information from initial, limited investigations to assess the relative potential of sites to pose a threat to human health or the environment.

<sup>3</sup> The primary purpose of the Navajo AUM Project is to identify AUMs, potential exposures, and recommend methods to reduce exposure from AUMs on the Navajo Nation. The agencies involved are the EPA, Bureau of Indian Affairs, Nuclear Regulatory Commission, Department of Energy, and Indian Health Service.



## Prior Report

In May 2014, the U.S. Government Accountability Office (GAO) issued a report titled *Uranium Contamination: Overall Scope, Time Frame, and Cost Information Is Needed for Contamination Cleanup on the Navajo Reservation* (GAO-14-323). The report focused on findings related to the 2008 5-year plan. The report indicated that six of the plan's eight objectives were met. The GAO concluded that federal agencies had not identified the full scope of remaining work, timeframes or costs to fully address uranium contamination on or near Navajo lands. The GAO made four recommendations, including that the EPA Administrator; Secretaries of Energy, Interior, and Health and Human Services; and Chairman of the Nuclear Regulatory Commission develop a coordinated outreach strategy to include in the 2014 5-year plan and take action to incorporate key practices in their collaborative effort (including defining and agreeing on the agencies' respective roles and responsibilities). The federal agencies agreed with the recommendation and incorporated key practices in the 2014 5-year plan.

## Responsible Offices

EPA Region 6 (which covers New Mexico) and Region 9 (which covers Arizona) are responsible for addressing actions related to the cleanup of the Tronox Settlement-funded abandoned uranium mine sites, with Region 9 acting as the lead regional contact to Navajo Nation. None of the sites in our review were in Utah, so we did not include Region 8 in our review. At headquarters, the Office of Land and Emergency Management, Office of Enforcement and Compliance Assurance, Office of the Chief Financial Officer, and Office of International and Tribal Affairs have roles in the oversight of the AUM mines and EPA special account funds.

## Scope and Methodology

We conducted our audit from December 2017 to June 2018. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We analyzed documentation on AUMs and special accounts from EPA websites and those provided by Regions 6 and 9, such as the 5-year plans, Tronox AUM Proposed Mine Evaluation Risk Factors, Tronox Settlement Agreement, Tronox financial reports, and funding memos. We interviewed Regions 6 and 9 management and staff to understand the EPA's process for prioritizing Tronox Settlement-funded AUM sites and to determine the resource allocation methodology used for these sites. We interviewed members of the Navajo Nation to gain a stakeholder perspective.

## Results

The EPA does not yet have a prioritization methodology for cleaning up the Tronox AUM sites on or near Navajo Nation lands, but is developing one. In conjunction with stakeholders<sup>4</sup> involved in AUM cleanups, the EPA has developed a system for identifying immediate risks and, where necessary, has taken the removal actions needed. The EPA has been following the National Contingency Plan for assigning risk to the sites and is gathering the data needed to complete prioritization for all Tronox sites. The EPA is tracking the estimated cleanup costs, timeframe for cleanup, and scope of cleanup for the Tronox AUM sites where cleanup work has already been conducted. After the prioritization methodology is developed, the EPA will be able to develop a resource allocation methodology for the Tronox AUM sites based on estimated cleanup costs, timeframe for cleanup and scope of cleanup.

### *EPA Is Developing a Prioritization Methodology for Tronox AUM Sites*

The EPA does not have a formal prioritization methodology for the cleanup of the Tronox AUM sites. According to EPA officials, they have been gathering the



EPA Region 9 staff in Arizona Cove and Red Valley areas in August 2017 working to determine most accessible roads to conduct removal site evaluations. (EPA photo)

necessary data and following the steps outlined in the National Contingency Plan to assess and eventually prioritize the Tronox sites. The EPA has implemented a “worst first” approach while proceeding through the development of the cleanup process. Prior to the Tronox settlement, the EPA used Airborne Spectral Photometric Environmental Collection Technology (ASPECT)<sup>5</sup> to gather information about contamination of the large affected area. The EPA was able to identify sites that were of higher risk to human health and the environment. The EPA initiated actions at sites where there was imminent danger.

In an effort to aide in prioritization prior to the Tronox settlement agreement, the EPA has been identifying site risk factors and grouping mines to create a site ranking. The first procedure the agency used for prioritizing the Tronox mines was the Mine Category Assessment Protocol,<sup>6</sup> which according to the EPA, integrated information from prior scans by EPA and its contractors as well as the ASPECT over-flights and included criteria such as proximity, potential

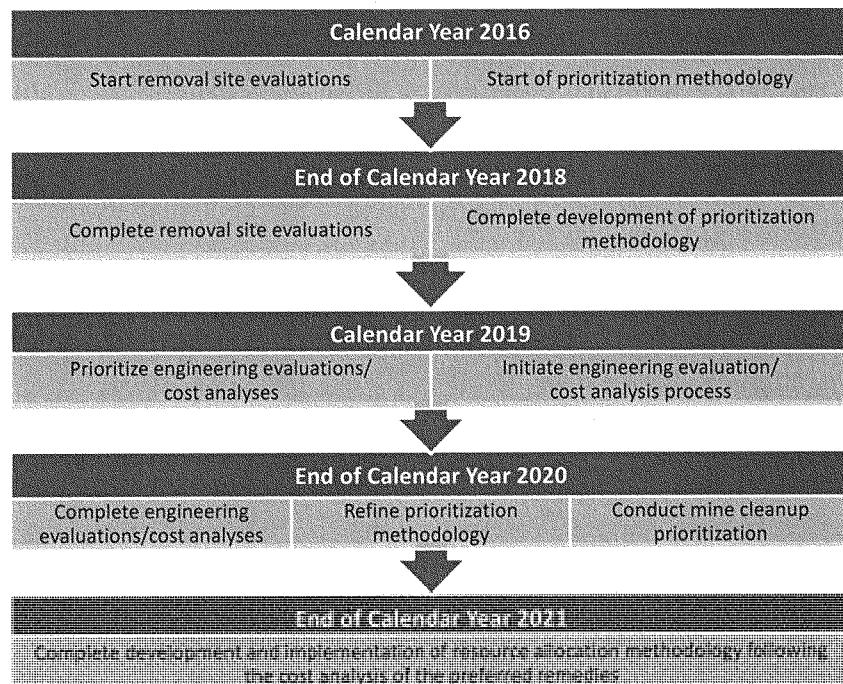
<sup>4</sup> Stakeholders include the Navajo Nation; states of Arizona and New Mexico; other federal agencies that are part of a national federal abandoned uranium mines cleanup group, such as the EPA, Department of the Interior and Department of Energy; and the public.

<sup>5</sup> ASPECT gamma survey collected data on uranium radioactivity levels in survey areas surrounding the AUMs.

<sup>6</sup> The Mine Category Assessment Protocol is used to develop a ranking system for prioritizing Removal Site Evaluations (see next footnote for definition).

human exposure and other risk factors. Following the protocol, the EPA is currently conducting the removal site evaluation<sup>7</sup> at the Tronox sites, after which the engineering evaluation/cost analysis<sup>8</sup> will be developed. Figure 1 provides a timeline of key activities during the next 4 years.

**Figure 1: Timeline for completion of prioritization and resource allocation methodologies**



Source: OIG image derived from EPA Region 9 data.

The prioritization methodology in development is being created with input from the Tronox stakeholders<sup>9</sup> and the Federal AUM Workgroup. Throughout its efforts in assessing the AUM sites and developing its plan for cleaning up the sites, the EPA has consulted with the Navajo Nation, consistent with EPA's 2011

<sup>7</sup> Removal site evaluations identify the source and nature of the release, evaluate the magnitude of the threat, and determine necessity of removal actions.

<sup>8</sup> Engineering evaluation/cost analyses analyze the ability to implement, and the cost and effectiveness, of various cleanup actions based on removal site evaluation data.

<sup>9</sup> Stakeholders include the Navajo Nation; state of New Mexico; and other federal agencies that are part of a national federal abandoned uranium mines cleanup group, such as the Department of the Interior and Department of Energy.

Policy on Consultation and Coordination with Indian Tribes. The EPA indicated it does not envision the final prioritization methodology being a list of sites in a numerical order but rather groupings of sites prioritized by highest to lowest risk.

***EPA Will Not Have a Resource Allocation Methodology for All Tronox Special Account Funds Until Prioritization Methodology Is Complete***

The EPA has not completed a resource allocation methodology for all of the Tronox AUM sites that accounts for estimated cleanup costs, timeframe for cleanup, and scope of cleanup. EPA officials said that they will not be able to fully develop this resource allocation methodology until the site prioritization is complete. However, the EPA is currently tracking the estimated cleanup costs, timeframe for cleanup, and scope of cleanup for the Tronox AUM sites where cleanup work has already been completed.

Regions 6 and 9 established a series of sub-accounts for individual sites/projects within the overall umbrella account that will be used to address the Navajo Area Uranium Mines. In April 2017, the EPA developed a "Tronox Navajo Area Uranium Mines Project Implementation Plan, Accounting Strategy" to manage, track, plan and communicate the use of the funds. EPA Region 6 uses a special account structure similar to EPA Region 9 to address the Tronox Navajo AUM sites in New Mexico. The accounts are tracked in the regions and headquarters through the Compass database and the Superfund Cost Recovery Package Imaging and On-Line System (known as "SCORPIOS"). The data obtained in those systems is presented in the EPA's quarterly and annual reports.

The EPA (Regions 6 and 9), Navajo Nation, and New Mexico meet several times a year to discuss prioritizing response actions and the funding of projects at each Tronox AUM site. The parties develop a coordinated prioritized project list along with estimated funding requirements for the following calendar year. Individual project lists are tracked in an annual "Approval and Annual Funding Projections for Implementation of Tronox Settlement Memo." Once projects are approved, a special account name/number is created for that project to track expenditures. Special account funds have been and will continue to be used for future cleanup actions needed to address sites that pose an imminent and substantial endangerment.

According to the EPA, the prioritization methodology is being developed to address all of the Tronox AUM sites. The EPA believes that prioritizations will be determined when the engineering evaluations/cost analyses are complete. The goals of the engineering evaluations/cost analyses are to identify the objectives of the cleanup and analyze the various alternatives that may be used to satisfy the objectives for cost effectiveness, and their ability to be implemented. Therefore, the EPA cannot provide a complete resource allocation methodology for all of the Tronox sites until completion of removal site evaluation and engineering evaluations/cost analyses.

## Conclusion

The agency has taken appropriate steps to assess sites, take removal actions when needed, and gather the data necessary to complete its assessments and develop its prioritization methodology. Regions 6 and 9 have agreed on a timeline to complete the key activities necessary to finalize their prioritization methodology. It is critical that the EPA meet its milestones and finalize the prioritization of Tronox AUM sites to use the Tronox special account effectively and provide continued protection of human health and the environment.

## Recommendations

We recommend that the EPA Regional Administrators, Regions 6 and 9:

1. Complete the necessary removal site evaluations and engineering evaluations/cost analyses.
2. Fully develop and implement prioritization and resource allocation methodologies for the Tronox abandoned uranium mine sites on or near Navajo Nation lands.

## Agency Response and OIG Evaluation

EPA Regions 6 and 9 agreed with the report's recommendations and offered technical comments in a response dated July 16, 2018. On July 30, 2018, the agency provided a revised email response to further address Recommendation 2. We revised the report as appropriate, based on the technical comments. In response to the recommendations, the regions provided acceptable corrective actions and planned completion dates, with corrective actions pending. Appendix A contains the agency's response to the discussion document, including the revised response.

### ***Status of Recommendations and Potential Monetary Benefits***

RECOMMENDATIONS						
Rec. No.	Page No.	Subject	Status <sup>1</sup>	Action Official	Planned Completion Date	Potential Monetary Benefits (in \$000s)
1	8	Complete the necessary removal site evaluations and engineering evaluations/cost analyses.	R	Regional Administrators, Regions 6 and 9	12/31/20	
2	8	Fully develop and implement prioritization and resource allocation methodologies for the Tronox abandoned uranium mine sites on or near Navajo Nation lands.	R	Regional Administrators, Regions 6 and 9	12/31/21	

<sup>1</sup> C = Corrective action completed.  
R = Recommendation resolved with corrective action pending.  
U = Recommendation unresolved with resolution efforts in progress.

## Appendix A

**Agency Response to Discussion Document**

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS TX 75202-2733

REGION IX  
75 HAWTHORNE STREET  
SAN FRANCISCO, CA 94105

JUL 16 2018

MEMORANDUM

SUBJECT: Response to Office of Inspector General Discussion Document, "EPA Is Developing a Methodology to Prioritize Cleaning Up Abandoned Uranium Mine Sites on or Near Navajo Nation Lands," (Assignment # OPE-FY17-0023) dated June 15, 2018

FROM: *[Signature]* Anne Idsal  
Regional Administrator  
Region 6

*[Signature]* Michael Stoker *7/13/18*  
Regional Administrator  
Region 9

TO: Kevin Christensen  
Assistant Inspector General  
Office of Audit and Evaluation  
Office of Inspector General

Thank you for the opportunity to respond to the issues and recommendations in the subject audit report. Following is a summary of the United States Environmental Protection Agency, Region 6 and 9's overall position, along with our position on the two report recommendations. For the report recommendations, we provide corrective actions and estimated completion dates to the extent possible. We also provide Region 6 and 9's detailed comments with respect to certain factual matters covered in the discussion document and a copy of comments from EPA's Office of Site Remediation Enforcement.

I. AGENCY'S OVERALL POSITION

The U.S. Environmental Protection Agency, Regions 6 and 9, agree with the recommendations in the report.

II. AGENCY'S RESPONSE TO REPORT RECOMMENDATIONS

Agreements

No.	Recommendation	High-level Intended Corrective Actions	Estimated Completion
1.	Complete the necessary removal site evaluations and engineering evaluations/cost analyses.	1.1 Complete removal site evaluations (RSEs).	December 31, 2018
		1.2 Complete engineering evaluations/cost analyses.	December 31, 2020
2.	Fully develop and implement prioritization and resource allocation methodologies for the Tronox abandoned uranium mine sites on or near Navajo Nation lands.	1.1 Complete development of prioritization methodology.	December 31, 2018
		1.2 Refine prioritization methodology.	December 31, 2020
		1.3 Conduct mine cleanup prioritization.	December 31, 2020
		1.4 Complete development and implementation of resource allocation methodology following the cost analysis of the preferred remedies.	December 31, 2021

**OIG Note:** On July 30, 2018, action officials for Regions 6 and 9 provided a revised response to report Recommendation 2 by providing the above objectives highlighted in blue text and designated as corrective action 1.4 with the corresponding estimated completion date.

Note: Regions 6 and 9 intend to follow through with our commitments and timeline (as we detailed above). However, completion dates are subject to available resources (staffing). As the OIG found (see <https://www.epa.gov/office-inspector-general/report-epas-distribution-superfund-human-resources-does-not-support-current>), both Regions 6 and 9 are operating at a structural deficit with regard to FTE. This lack of adequate resources could affect the actual completion dates.



### Disagreements

The U.S. Environmental Protection Agency, Regions 6 and 9, have no disagreements.

### III. DETAILED COMMENTS FROM REGIONS 6 AND 9

1. On Page 1, first paragraph, the draft indicates “On January 21, 2015, the EPA recovered almost \$1 billion from Tronox Incorporated.” To clarify the settlement history, there have been two separate settlements in the Tronox Bankruptcy that provided funding for the “Navajo Area Uranium Mines” (“NAUM”) (collectively “the Settlements”). The first settlement was with Tronox, Incorporated and provided approximately \$12 million. The second settlement was with Anadarko Petroleum Corporation, resolved fraudulent conveyance claims against Kerr-Mc-Gee Corporation and provided approximately \$890 million. Each of the Settlements also provided separate funding for the Quivira Mine Site, the largest of the Tronox uranium mines on the Navajo Nation (approximately \$1.2 million and \$89 million respectively). In total, the two settlements provided approximately \$990 million to address uranium mine sites formerly operated by Kerr McGee Corporation on and near the Navajo Nation.
2. On Page 1, Charles Huskon No. 7 Mine (EPA photo). This is not a Tronox mine. Attached please find a photo of the Tronox Mesa V Shaft and waste pile for possible use in the report.
3. On Page 1, first paragraph, the draft indicates “50 abandoned uranium mine sites.” There are currently 54 NAUMs funded by the Settlements. As noted above, funding for the Quivira Mine Site is completely separate and cannot be prioritized *vis a vis* the other NAUM sites.
4. On page 1, the second paragraph should reflect that the mines were operational until the 1980s.
5. On page 2, the second sentence should clarify that “Tronox Special Account funds [designated for specified uranium mine sites in or near Navajo Nation territory] can be used to support activities related to the assessment and cleanup at the approximately 54 mines and contamination caused by the mines.”
6. On Page 2, Tronox Settlement Agreements bullet #2, because contaminants other than radiation will be evaluated, we recommend the following change to bullet #2:
  - *Investigate the nature and extent of the contamination in water, soil, sediment and air.*
7. On Page 2, second paragraph, it should be noted that of the 54 NAUM sites covered by the funding in the Tronox Settlements, 20 are near the Navajo Nation on private land within New Mexico.

8. On Page 2, Impacts on Human Health and Environment from Uranium Contamination, the Regions recommend changing “unregulated water” to “contaminated water” for clarification.
9. On Page 5, first paragraph, the draft indicates “In conjunction with AUM cleanup stakeholders, the EPA has developed a system for identifying immediate risks and, where necessary, has taken the removal actions needed.” For clarification, it should read “In conjunction with stakeholders involved in AUM cleanups nationwide, the EPA has developed a system for identifying immediate risks and, where necessary, has taken the removal actions needed.”
10. On Page 5, EPA photo caption states “EPA Region 9 staff assessing Tronox mines in the Cove and Red Valley areas in August 2017 to determine most assessable roads to conduct removal site evaluations”. The caption should read “The EPA Region 9 staff is assessing Tronox mine roads in the Cove and Red Valley areas in August 2017 to determine most accessible roads to conduct removal site evaluations”.....
11. On Page 5, third paragraph – first sentence should include that ASPECT was used for prioritization:  
  
*In an effort to aide in prioritization prior to the Tronox settlement agreement, the EPA has been identifying site risk factors and grouping mines to create a site ranking. The first procedure the agency used for prioritizing the Tronox mines was the Mine Category Assessment Protocol,<sup>5</sup> which integrated information from prior scans by EPA and its contractors as well as the ASPECT over-flights and included criteria such as... ..*
12. On Page 6, second paragraph, Federal Uranium Mines Commission should be replaced with Federal AUM Workgroup.
13. On Page 7, third paragraph – the first sentence should include acknowledge that the prioritization methodology is being developed through collaboration and outreach to Navajo Nation and the State of New Mexico.
14. General Footnote Comment – stakeholders should include the public.

**Appendix B*****Distribution***

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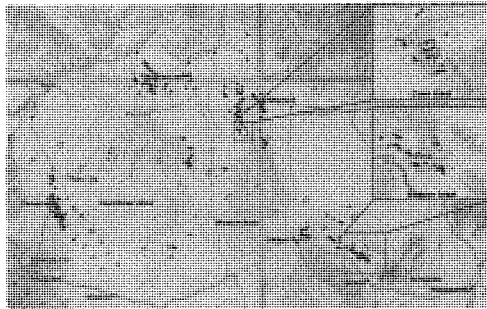
U.S. ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF INSPECTOR GENERAL

*Cleaning up and revitalizing land*

**EPA Needs to Finish  
Prioritization and Resource  
Allocation Methodologies for  
Abandoned Uranium Mine  
Sites on or Near Navajo Lands**

Report No. 18-P-0233

August 22, 2018



**Report Contributors:**

Christina Lovingood  
 Patrick Milligan  
 Bakari Baker  
 Kate Robinson  
 Roopa Mulchandani

**Abbreviations**

ASPECT	Airborne Spectral Photometric Environmental Collection Technology
AUM	Abandoned uranium mine
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
EPA	U.S. Environmental Protection Agency
GAO	U.S. Government Accountability Office

**Cover Image:** The map represents the Tronox Mines on or near Navajo Nation lands.  
 (EPA-generated map)

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The Honorable Andrew Wheeler, Administrator  
 U.S. Environmental Protection Agency  
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**Subcommittee on Environment and Climate Change  
 Hearing on  
 “The Fiscal Year 2020 Environmental Protection Agency Budget”  
 April 9, 2019**

**The Honorable Andrew Wheeler, Administrator  
U.S. Environmental Protection Agency**

**The Honorable Frank Pallone, Jr. (D-NJ)**

1. EPA is currently leading a multi-agency *Federal Research Action Plan on Recycled Tire Crumb Used on Playing Fields and Playgrounds*. The study began in response to several letters I sent to EPA and ATSDR highlighting concerns about the safety of this material.
  - a. The release of the study has been delayed with respect to the original timeline. What is the current status of the study and when can we expect to see the final report?

The timeline the EPA, Centers for Disease Control (CDC), Agency for Toxic Substances and Disease Registry (ATSDR), and the U.S. Consumer Product Safety Commission (CPSC) initially set for the research activities included under the *Federal Research Action Plan (FRAP) on Recycled Tire Crumb Rubber Used on Synthetic Turf Playing Fields and Playgrounds* has been affected by a number of factors including the time needed to obtain important federal approvals and the need to address external peer review comments.

A goal of the FRAP is to characterize potential human exposures to the substances contained in recycled tire crumb rubber used on synthetic turf fields. Results of the effort will be reported in two parts. Part 1 (Recycled Tire Crumb Characterization report) communicates the research objectives, methods, results, and findings for the tire crumb rubber characterization research (i.e., what is in the material). Part 1 was released to the public on July 25, 2019. In general, the findings from the report support the premise that while chemicals are present, as expected, in the tire crumb rubber, human exposure may be limited based on what is released into air and/or simulated biological fluids. Part 2, to be released at a later date, will document the results from the exposure characterization (i.e., how people come in contact with the materials, how often and for how long), including a biomonitoring study being conducted by CDC/ATSDR. CPSC is conducting the work on playgrounds and results from that effort will be reported separately.

When finalized, neither Part 1 nor Part 2 of this study, separately or combined, will constitute an assessment of the risks associated with playing on synthetic turf fields with recycled tire crumb rubber infill. When this study was ordered in 2016, it was not supposed to be a risk assessment. The results of the research described in the final versions of both Part 1 and Part 2 of this study should inform future risk assessments.

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**For more information, please visit: <https://www.epa.gov/chemical-research/federal-research-recycled-tire-crumb-used-playing-fields>.**

**The Honorable Paul Tonko (D-NY)**

1. The U.S. Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, and the New York State Department of Environmental Conservation have all recommended additional clean up actions before issuance of a Certificate of Completion at the Hudson River Superfund site.
  - a. How did the Environmental Protection Agency (EPA) take into account the data and professional opinions of its sister agencies and New York State in its 5-year review?

**The EPA made its Five-Year Review (FYR) decision (to defer making a protectiveness determination at this time) after careful review and consideration of all comments provided by the State of New York, federal natural resource trustees, key stakeholders, and the public.**

**The EPA reviewed all available project data during the FYR process. Additionally, over the course of 2018, the EPA worked collaboratively with the New York State Department of Environmental Conservation (NYSDEC) in reviewing the data from approximately 1,200 sediment samples taken by the state in 2017 from the Upper Hudson River.**

**Before finalizing its FYR, the EPA released the draft report for public review. The EPA conducted three public meetings during the extended 90-day comment period. Over two thousand comments on the draft FYR Report were received and reviewed before the report was finalized. The EPA also participated in several meetings of the Community Advisory Group, or CAG, for the Hudson River site. Additionally, the EPA held meetings with several stakeholders, and ensured that they had full access to EPA experts and decision-makers.**

**The EPA believes our Five-Year review decision is scientifically sound and that it responds to community concerns.**

- b. How did EPA take into account the data and professional opinions of its sister agencies and New York State in EPA's consideration of whether or not to issue a Certificate of Completion to the General Electric Company for its clean up actions to date?

**The EPA made its decision to certify the remedial action after careful review and consideration of comments provided by the State of New York, federal natural resource trustees, key stakeholders, and the public. The EPA also had detailed discussions/meetings with NYSDEC and the Office of the Attorney General and the trustees (including EPA's**

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sister agencies). The EPA believes it took the time to thoroughly understand their concerns and explain EPA's technical and legal positions regarding the Consent Decree and the certifications.

There are three separate certifications of completion that General Electric Company (GE) may request from the EPA under the 2006 Consent Decree:

- (a) The "Certification of Completion of Phase 1 Field Activities," which was provided to GE by EPA in 2012 after it completed the first year of dredging.
- (b) The "Certification of Completion of the Remedial Action," which was issued to GE by the EPA in 2019.
- (c) The "Certification of Completion of the Work," which would certify that all work required under the Consent Decree has been completed. This certification is not expected to be available to GE for, at the least, five decades.

Under the Consent Decree, GE is entitled to receive from the EPA the Certification of Completion of Remedial Action (b) if the EPA concludes that the Remedial Action, as that term is defined in the Consent Decree, has been performed in accordance with the Consent Decree.

During the years that GE performed the dredging and related tasks (i.e., 2007 through 2016), the EPA—in consultation with NYSDEC—approved GE's performance of each discrete task as it was completed. It was important that the EPA act in good faith, predictably and reliably, to fulfill its obligations under the agreed-upon terms of the judicial Consent Decree, just as the EPA expects GE to fulfill its obligations. The State of New York concurred with the remedy selected in the 2002 Record of Decision. Accordingly, the EPA issued the Certification of Completion of the Remedial Action, indicating that GE had properly completed the dredging and other construction activities required by the Consent Decree.

This certification does not in any way indicate that the cleanup of the Upper Hudson is over. GE remains obligated to do much additional work under the Consent Decree, including monitoring of PCBs in fish, sediment and water, and monitoring and maintenance of caps placed on the river bottom. That work will continue for many years, and GE remains subject to the reopeners in the Consent Decree.

2. The Renewable Fuel Standard authorized electricity as a qualified fuel, and EPA adopted a final rule that would allow biomass-powered facilities to participate. That was in 2014 and since then, more than 40 facilities have applied with no action from EPA.

- a. Does EPA plan to include electricity in the reset and the 2020 RVO?

The EPA will consider all projected production of cellulosic RINs in setting standards.



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U.S. Environmental Protection Agency  
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During the hearing, Members asked you to provide additional information for the record, and you indicated that you would provide that information. For your convenience, descriptions of the requested information are provided below.

1. An update on the status of the National Academy of Sciences' review of EPA's Systematic Review Method for TSCA risk evaluations.

**The EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) has been working with the National Academies of Science (NAS) to engage the Academy in reviewing EPA's Systematic Review Method for TSCA risk evaluations. The EPA awarded a contract to the NAS in July of 2019 and the Task Order specific to this effort was executed in November of 2019. The peer review effort has been initiated by the NAS on December 13, 2019.**

2. An update on the status of the release of a 2017 Office of Research and Development review report for the Office of Pesticides Programs on the epidemiology and health effects research regarding exposures to glyphosate.

**Based on review by both the Office of Research and Development (ORD) and the Office of Chemical Safety and Pollution Prevention (OCSPP), this report does not exist.**

3. An update on the status of the release of the Integrated Risk Information System handbook.

**For the IRIS Handbook, the goal is to release it for public comment and peer review when broader Agency and interagency review is complete.**

4. A response to a letter dated December 7, 2018, to Administrator Wheeler from Reps. Tonko, Lujan, Welch, and Dingell regarding PFAS and the TSCA program.

**The Agency provided a response on June 6, 2019.**

**The Honorable Lisa Blunt Rochester (D-DE)**

1. Mr. Wheeler, you testified during the hearing that funds appropriated to the Safe Drinking Water for Small & Disadvantaged Communities Program will be disbursed, "this summer." Can you provide an exact timeline of when the money will be disbursed?

**The EPA has been appropriated \$45 million (total for FY 2018 and FY 2019) to help public water systems in small and disadvantaged communities meet the Safe Drinking Water Act requirements. The announcement of allocation for states occurred in April 2019. Release of support documents for this grant program occurred in August 2019. The states will have one year to apply for the funding. The EPA is providing an extended application window to allow the states time to identify the 45 percent cost share required by statute.**

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2. Is the EPA committed to providing technical assistance to small and disadvantaged communities once the funding has been disbursed?

**Yes. Since 2006, the EPA has provided nearly \$150 million in technical assistance grants to assist small drinking water and wastewater systems and private well owners. With the Small and Disadvantaged Communities Drinking Water Grant, the EPA will continue to expand efforts to provide training and tools to improve small system operations and management practices, promote sustainability, and support the EPA's mission to protect public health and the environment. The areas of assistance include asset management, capital improvement planning, fiscal planning and rate setting, water loss reduction, water system collaboration and partnerships, managerial leadership, funding coordination, and workforce development, as well as training and technical assistance on maintaining and achieving compliance with National Primary Drinking Water Regulations.**

**The EPA's Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) provide low-interest loans to communities for water infrastructure projects. States may customize loan terms to meet the needs of small, disadvantaged communities, which typically have fewer financing options. The State Revolving Loan Funds (SRFs) are a significant source of federal funding for water infrastructure in small communities across the nation. The FY 2020 budget includes \$2 billion for the SRFs to fund water infrastructure improvements including those in small and tribal communities.**

**The EPA will also continue to provide non-infrastructure support for states and tribes under the auspices of the DWSRF, which permits the use of "set-asides" derived from the entire fund to build small water system technical and managerial capacity; advises states on maintaining their capacity development and operator certification programs to support compliance and to enable water systems, especially small systems, to meet statutory prerequisites for receiving infrastructure financing; and encourages states to develop state-centric tools, in lieu of national tools, to assist water systems with capacity development.**

**In addition, the Public Water System Supervision grant provides funding to states and tribes to implement Safe Drinking Water Act requirements to help small systems install, operate, and maintain appropriate levels of treatment and effectively manage their distribution systems. The EPA focuses on small systems by strengthening and targeting financial assistance, in coordination with state infrastructure programs, to support rehabilitation of the Nation's infrastructure. The agency also provides training to support drinking water system partnerships. Partnerships provide opportunities to increase capacity by working together to solve compliance challenges, share costs of operations and maintenance activities, and leverage other resources. The Agency will continue to promote partnerships among water systems to build capacity and work with states and tribes, as well as with utility associations, third-party technical assistance providers and other federal partners, to promote the sustainability practices that are the foundation for building technical, managerial, and financial capacity.**

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3. Mr. Wheeler, you testified that, “there are other ways of targeting small and disadvantaged communities through the AWIA program.” How much discretionary funding authorized under America’s Water Infrastructure Act does the EPA plan to dedicate to small & disadvantaged communities?

**The America’s Water Infrastructure Act (AWIA) increased the amount of additional subsidy states must provide to disadvantaged communities through the Drinking Water State Revolving Fund (DWSRF) program. This subsidy, in the form of loans with principal forgiveness or negative interest rates, reduces the cost of critical drinking water infrastructure in those communities. Under AWIA, state DWSRF programs must provide between 6 and 35 percent of the amount of their federal DWSRF capitalization grant in additional subsidy to disadvantaged communities. In dollar terms, for the FY 2019 capitalization grants, approximately \$65 million to \$375 million is now available for this purpose.**

**In addition, the FY 2020 budget requests funding to address provisions of AWIA that will significantly affect small and disadvantaged communities. These provisions include: support to states and water systems in preparation of risk assessments and emergency response plans (sec. 2013), a report to Congress on prevalence of low- and moderate-income households lacking access to wastewater treatment (sec. 4107), providing training and technical assistance to lead testing grant recipients, giving priority to schools and child-care programs in low-income areas (sec. 2006), providing training and technical assistance to states on including asset management as part of the state capacity development program and developing case studies and best practices (sec. 2012), expanding the drinking water needs survey to include lead service line replacement costs (sec. 2015), providing grants to nonprofit organizations to assist rural, small, and tribal municipalities (sec. 4103), and supporting projects on Indian reservations to connect, expand, or repair existing public water systems in order to improve water quality, water pressure, or water services (sec. 2001).**

4. How does the EPA define “small & disadvantaged communities” for purposes of discretionary spending under AWIA?

**Under the Drinking Water State Revolving Fund provisions in the Safe Drinking Water Act, each state defines a disadvantaged community using affordability criteria developed by the state after public review and comment. AWIA requires that every state have a disadvantaged community program, so the EPA is using those state-specific definitions.**

5. How many small and disadvantaged communities in Delaware and other states, territories, and tribal areas has EPA identified or know of that need safe drinking water systems?

**Under the Drinking Water State Revolving Fund (DWSRF) provisions in the Safe Drinking Water Act, each state defines a disadvantaged community using affordability criteria developed by the state after public review and comment. AWIA requires that every state**

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has a disadvantaged community program. The State of Delaware has the discretion of defining and identifying small and disadvantaged communities for the purposes of both the grant program authorized by section 1459A of the Safe Drinking Water Act and DWSRF. The EPA's sixth national assessment of public water system infrastructure needs showed a national total 20-year capital improvement need of \$472.6 billion for all systems. Delaware's need is approximately \$806.3 million. Of that amount, approximately \$354.3 million is needed for small systems. This estimate represents DWSRF-eligible infrastructure projects necessary from January 1, 2015 through December 31, 2034 for water systems to continue to provide safe drinking water to the public.

6. Has the EPA conducted an internal evaluation or audit of the Safe Drinking Water for Small & Disadvantaged Communities Program? If so, will the EPA provide those documents to the committee.

The EPA is in the process of standing up the grant program for Assistance to Small and Disadvantaged Communities, and the Program will be implemented in accordance with the Agency's grant guidance ([www.epa.gov/grants](http://www.epa.gov/grants) and <https://intranet.epa.gov/ogd/>) and the Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards to Non-Federal Entities* guidance, which is commonly known as the *Uniform Grant Guidance* (2 CFR 200), including all internal evaluation and audit requirements. The EPA intends to evaluate the program once it has been implemented.

**The Honorable Jan Schakowsky (D-IL)**

1. The Great Lakes provide drinking water for 42 million Americans and contain 21% of the world's fresh water. The Great Lakes Restoration Initiative is a vitally important and successful program that improves water quality for safe drinking water and provides numerous ecological and environmental benefits. But the Great Lakes face increased threats from harmful algae blooms, chemical runoff, and the effects of climate change. These in turn threaten the health of millions of Americans whose lives and livelihood depend on the Great Lakes. Administrator Wheeler, do you support restoring funding for the Great Lakes Restoration Initiative to its original \$475 million in annual appropriations?

The EPA is committed to continuing to partner across the federal government and with state and local authorities to support the restoration of the Great Lakes. The FY 2020 request for the Great Lakes Restoration Program is \$300 million to continue to advance these efforts, in line with recent enacted funding levels. The EPA and our federal partners are currently in the stages of developing the GLRI Action Plan III for FY 2020-2024 that will further address the environmental concerns facing the Great Lakes.

2. When the EPA released its initial budget in March, it sought to cut Great Lakes Restoration Initiative funding by 90% from \$300 million to \$30 million. Why did the first

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budget proposal make such dramatic cuts? What caused such an abrupt about face in funding?

**Given the importance of the Great Lakes, a budget amendment was developed and submitted to Congress on May 13, 2019, to fund the Great Lakes Restoration Program at \$300 million.**

3. In your interview March 30, you claimed that safe drinking water is a more pressing danger than climate change. In reality, the two go hand in hand and the greatest threat to drinking water is climate change. Does the President's budget cut funding for water programs? If you see water security as a greater threat, why does the budget cut \$410 million from programs that protect major bodies of water such as the Great Lakes?

**As Administrator of the EPA, I believe that water issues are the largest and most immediate environmental and public health issues affecting the world right now. This includes the availability of clean and safe drinking water, the reduction of marine litter, and improving and investing in water infrastructure. The EPA remains steadfast in ensuring access to reliable and safe drinking water in communities across America, supporting water infrastructure in innovative ways, for example through the Water Infrastructure Finance and Innovation Act (WIFIA) Program, and protecting the nation's surface waters. The President's Budget includes resources to support the Chesapeake Bay and Great Lakes Restoration geographic water programs, where the federal government can support regional or international efforts. Funding is reduced where state and local entities have the capacity to maintain progress in protecting our important water bodies.**

4. Staying on the topic of clean drinking water, you stated in your April 2 testimony before the House Appropriations Committee that the EPA has "just started" the process of designating PFAS as a hazardous substance and it will take time before it is fully listed as such. If there is still so much to do before we can clean up and protect our water from PFAS, why does the EPA propose cutting more than \$220 million from research on these chemicals.

**PFAS is an EPA priority, as reflected in the development of a first-ever comprehensive Agency PFAS Action Plan, which outlines concrete steps the Agency is taking to address PFAS and to protect public health. To implement the Action Plan and address PFAS, the EPA will continue to work in close coordination with multiple entities, including other federal agencies, states, tribes, local governments, water utilities, industry, and the public.**

**FY 2020 funding levels for PFAS research are estimated based on FY 2020 President's Budget request levels. Actual PFAS funding levels will not be determined until after the Agency receives the annual appropriation for FY 2020. While the FY 2020 President's Budget includes reductions to research, program and Regional office work, the EPA will ensure the commitments identified in the PFAS Action Plan are completed in a comprehensive and holistic way that includes all respective EPA Offices, and provides the necessary tools to assist federal partners, states, tribes, and communities in addressing**

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**PFAS.**

5. Under the proposed budget, states would lose funding for two of the most popular and productive infrastructure programs: the Clean Water Act State Revolving Fund (CWA SRF) and the Safe Drinking Water State Revolving Fund (SDWA SRF). In Illinois, the Clean Water Act State Revolving Loan Fund (SRF), which helps provide low interest loans to communities in the State of Illinois for sewer improvements, was slashed, without explanation, by \$26 million dollars, one of the largest percentage hits to any state under Trump's budget blueprint. Why has the EPA proposed these cuts when infrastructure is a stated priority of the Administration?

**Investing in the replacement and improvement of the nation's aging water infrastructure is a top priority for the EPA. The FY 2020 President's Budget includes \$1.983 billion for increased federal capitalization of the Clean Water and Drinking Water State Revolving Funds, which complements resources currently revolving at the state level, which is approximately \$80 billion. The budget also includes \$83 million and 19.6 FTE to support the recently enacted America's Water Infrastructure Act (AWIA), which Congress did not fund in 2019. This includes the creation of five new grant programs to provide support to state, local, and tribal programs. Additionally, the budget request includes \$25 million for the Water Infrastructure Finance and Innovation Act (WIFIA) Program, which will build on this innovative financing program. As of December 2019, the EPA has issued 14 WIFIA loans totaling over \$3.5 billion in WIFIA credit assistance to help finance over \$84 billion for water infrastructure projects and create over 15,000 jobs. The EPA recently invited an additional 38 projects in 18 states to apply for a WIFIA loan. The projects proposed would total approximately \$6 billion in water infrastructure investments and create almost 200,000 jobs.**

6. The Administration also inexplicably proposes to reduce the Illinois Drinking Water State Revolving Loan Fund (SRF), which helps municipalities get low interest loans for drinking water facilities, including lead pipe replacement, by \$11 million dollars. These funds also bring in \$2-\$4 in benefits for every dollar spent in the state. Administrator Wheeler, do you agree that lead in drinking water is dangerous?
  - a. If so, why do you support reduction in this item when it is one of the few measures that will serve to reduce the amount lead in drinking water?

**We are working aggressively to reduce exposure to lead from various sources, including drinking water. The Agency is working to address these concerns through our recently released Lead Action Plan. The FY 2020 President's Budget request includes \$863.2 million for the Drinking Water State Revolving Fund, allowing states to finance high priority infrastructure investments, including the replacement of lead service lines to protect human health. In addition, the FY 2020 budget request includes \$10 million for a Lead Testing in Schools grant as well as \$5 million for a Lead in Drinking Water Fountain Replacement grant. Another resource available to drinking water systems is the Water Infrastructure Finance and Innovation Act (WIFIA) credit program, which can also help**

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**address lead exposure.**

7. As my colleague, Representative Quigley noted in the April 2 hearing before the House Appropriations Committee, the EPA has been hemorrhaging staff without replacing them. He also noted that Region 5—which includes my district in Illinois—has lost over 120 engineers and scientists since 2017. You stated that there were “serious workforce challenges” in speeding up hiring and that you are “losing people at a very fast rate.” Why is it that so many staff are leaving the Trump Administration’s EPA?

With approximately one-quarter of EPA employees eligible to retire today and 48 percent of current employees eligible in the next five years, workforce planning serves as the foundation for managing the Agency’s human capital. That being said, EPA’s recent attrition remains within historical annual levels of 5-8 percent, with the higher annual attrition percentages (FY 2014, FY 2015, and FY 2017) aligning with agency-level early out/buyout events. The EPA is actively working to fill vacancies from separations, over a 13-month period ending in November 2019, the Agency hired 982 employees from outside the Agency for a net increase of 18 employees.

The chart below displays EPA attrition agencywide for FY 2013 through FY 2018.

Fiscal Year	Attrition %
2013	5.85%
2014	7.57%
2015	6.41%
2016	5.35%
2017	7.69%
2018	5.85%

**The Honorable Diana DeGette (D-CO)**

EPA’s “EJ 2020 Action Agenda: EPA’s Environmental Justice Strategy” (<https://www.epa.gov/environmentaljustice/ej-2020-action-agenda-epas-environmental-justice-strategy>) is an excellent roadmap for integrating environmental justice considerations throughout EPA’s programs, strengthening EPA’s collaboration with stakeholders, and demonstrating EPA’s progress in advancing environmental justice – a critical national priority. Before releasing the Action Agenda, EPA held four national webinars and over one hundred meetings around the country to discuss the plan and address questions raised about it. Thousands of interested citizens commented on both the draft and the final plan. It would be fair to say that release of the strategy offered real hope of progress – a hope that could only be met by its diligent implementation.

One of the great strengths of the Action Agenda is its comprehensiveness, as indicated by the 94

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specific actions it describes, which collectively touch on every aspect of the Agency's work. Unfortunately, because the FY 2017 annual report on the environmental justice program did not cover progress in all these areas and the FY 2018 report has not yet been completed, it is not possible to make a fair assessment of the Agency's progress in implementing the Action Agenda. The Agency is therefore requested to provide the following information pertaining to the actions to which it has committed itself in the EJ 2020 Action Agenda.

As described in Chapter 4, Action 1.2 of the EJ 2020 Action Agenda, EPA has committed itself to working with co-regulators to identify and undertake community-focused compliance reviews and enforcement strategies in at least 100 of the most overburdened communities where data indicate that facilities present a high likelihood of serious non-compliance issues impacting those communities, and addressing serious violations if found. Please respond to the following questions pertaining to this action item:

1. Has EPA identified the 100 (or more) overburdened communities described by the Action Agenda? These communities will be referred to below as the "EJ Communities."
2. Please identify each EJ Community by state, local jurisdiction, and any additional necessary locational information (e.g., highway boundaries, electoral precinct numbers).
3. What data was used to determine that facilities present a high likelihood of serious non-compliance issues impacting the EJ Communities?
4. For each EJ Community, which facilities present a high likelihood of serious non-compliance issues impacting the community? For each such facility, please provide the facility name; physical address; any relevant identifier under the Toxics Release Inventory, RCRA, the Clean Air Act, the Safe Drinking Water Act, and the Clean Water Act; and reason for assessing that it presents a high likelihood of serious noncompliance.
5. What community-focused compliance reviews and enforcement strategies has EPA undertaken with respect to those facilities and others impacting the EJ Communities?
6. What serious violations has EPA found in those facilities and what enforcement actions have been taken?

**The EPA is not targeting 100 (or more) overburdened communities for enforcement as recommended by the EJ 2020 Action Agenda. Instead, the EPA is targeting enforcement based on environmental problems and public health risks, which may occur more frequently in these communities. For example, in its National Compliance Initiatives for 2020-2023, the EPA is making it an enforcement priority to reduce emissions of VOCs that may adversely affect vulnerable populations as well as hazardous air pollutants from sources located in communities. In implementing the Agency's Lead Action Plan, multiple Regions have adopted a community-based approach to addressing high blood lead levels, including enforcement. For example, Region 8 conducted 61 lead inspections in the Denver Place-based Initiative area that resulted in 32 enforcement actions, In FY 2018, 657**



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**enforcement actions undertaken by the EPA took place in communities identified with potential EJ concerns through our EJ Screen process discussed below.**

**The EPA remains committed to advancing environmental justice for communities across the United States. This Administration has elevated its Office of Environmental Justice within the EPA's Office of Policy to ensure that environmental justice considerations are integrated in the EPA's decision-making process. The EPA's work to implement Executive Order 13853 ("Opportunity Zones") has helped leverage private investment in economically distressed communities, bringing both economic revitalization and environmental improvement.**

**As stated in EPA's Environmental Justice FY 18 Progress Report, the Office of Enforcement and Compliance Assurance (OECA) continues to strengthen the integration of environmental justice into the Agency's enforcement program – from the problems that are selected for enforcement attention, to the way relief is structured to correct noncompliance, and to how EPA communicates with affected communities. The EPA's ongoing work includes reviewing all new cases to determine whether they may affect overburdened communities and, as appropriate, structuring the resolution of enforcement actions to benefit affected communities.**

**In 2018, the EPA performed 1,007 environmental justice screenings in our enforcement and compliance work. These EJSCREEN reviews serve two purposes. It assures that EPA enforcement personnel working on a case are aware of the potential EJ concerns in a community, and then may look for opportunities to address those concerns, as appropriate. This also allows the Agency to gauge how much of its enforcement work is being done in areas with potential EJ concerns. [As noted above, in FY 2018, 657 cases involved facilities in such areas.]**

**Through our continued collaborative efforts with states, tribes, and local governments, our work with our partners across the federal government, and our continued work across EPA's program offices, the EPA continues to deliver on its commitment to promote environmental justice as we work to protect human health and the environment.**

**The EPA recognizes the importance of Congress' need to obtain information necessary to perform its legitimate oversight functions and is committed to continuing to work with your staff to best accommodate the Committee's interests. The EPA has briefed Committee staff on the Agency's efforts regarding environmental justice, and we are working to provide additional information and potential briefings to the Committee to answer remaining questions. As has been discussed with Committee staff, and in line with Agency goals, the EPA is currently focused on several strategic priorities for our environmental justice program. We look forward to continuing to engage with the Committee on the EPA's ongoing environmental justice priorities, including future strategic prioritization and planning.**

**During the April 9, 2019 hearing of the Environment and Climate Change Subcommittee, Rep.**

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Diana DeGette mentioned this action item and asked Administrator Andrew Wheeler, “Do you know if EPA has identified the 100 most overburdened communities?”

Administrator Wheeler replied, “We are in a process of identifying communities around the country that are under the new economic development process. I think there’s overlap between that list and these communities.”

Please respond to the following questions pertaining to communities under this “new economic development process” (referred to below as “NEDP Communities”) and possible overlap between EJ Communities and NEDP Communities:

7. When Administrator Wheeler mentioned “communities around the country that are under the new economic development process,” exactly which NEDP Communities was he referring to? Please identify the NEDP Communities by state, local jurisdiction, and any additional necessary locational information.
8. How were the NEDP Communities identified?
9. To what extent was “data [that] indicate that facilities present a high likelihood of serious non-compliance issues impacting those communities” used in the identification of the NEDP Communities?
10. Which communities have been identified as both EJ Communities and NEDP Communities?

**The EPA continues to deliver on its commitment to promote and provide environmental justice for communities across the United States. The EPA is also providing greater certainty to our federal, states, tribal, and local partners; certainty in EPA programs; and certainty in how we communicate risk. This certainty will help to strengthen environmental and public health protections for low-income, minority, indigenous, and disadvantaged communities that are disproportionately likely to live near contaminated lands or be impacted by environmental hazards. Lastly, the EPA elevated its Office of Environmental Justice within the EPA’s Office of Policy to ensure that environmental justice considerations are integrated in the EPA’s decision-making process.**

**We are also focused on the remediation of Superfund sites. The EPA’s Superfund Task Force has facilitated numerous delistings on the National Priorities List (NPL), helping to redevelop hazardous sites for use and bringing environmental and economic relief to once-struggling communities. An example of this occurred earlier this year, when the EPA finalized a partial deletion of the Vasquez Boulevard/Interstate 70 Superfund Site in Denver, Colorado. This Administration is committed to making the EPA’s Superfund program a high priority; in FY2018, the EPA deleted all or part of 22 sites from the NPL. This is the largest number of deletions in one year since FY2005 and in FY19 the EPA deleted even more (27 sites).**

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**Opportunity Zones (OZs) are designated by the Governors of states and territories and are eligible for federal tax incentives that promote long-term equity investments in these communities. The EPA's work to implement Executive Order 13853 ("Opportunity Zones") has helped leverage private investment in economically distressed communities, bringing both economic revitalization and environmental improvement.**

Lastly, this Administration has issued \$2.4 million in grants through EJ Small Grants and EJ Collaborative Problem-Solving Cooperative Agreements. EPA's EJ Collaborative Problem-Solving Cooperative Agreement Program provides funding for eligible applicants for projects that address local environmental and public health issues within an affected community and EPA's EJ Small Grants Program supports and empowers communities working on solutions to local environmental and public health issues. In 2018, the EPA launched the Environmental Justice and Community Revitalization Council (EJCRC) to provide strategic direction for the EPA's community-based work. This convening of senior leaders allows us to better serve communities and coordinate our actions and investments across EPA programs and regions. Additionally, the EJCRC advances cooperative federalism and tracks work at the state level. The EPA also collaborates with a number of external stakeholders, including state governments, to advance environmental justice efforts. For some examples on how the EPA collaborates with state governments please see the EPA's FY 2018 EJ Progress Report ([https://www.epa.gov/sites/production/files/2019-08/documents/ejprogress\\_report\\_fy2018-11.pdf](https://www.epa.gov/sites/production/files/2019-08/documents/ejprogress_report_fy2018-11.pdf)).

**Through our continued collaborative efforts with states, tribes, and local governments, our work with our partners across the federal government, and our continued work across EPA's program offices, the EPA continues to deliver on its commitment to promote environmental justice as we work to protect human health and the environment.**

As described in Chapter 5, Measure 2 of the EJ 2020 Action Agenda, EPA has committed itself and EPA-funded grantees to publishing a series of reports and scientific papers that significantly advance the scientific foundation for cumulative risk assessments, supporting the incorporation of information on chemical and nonchemical stressors into selected Agency health assessments.

11. Please give a complete citation for each report and scientific paper that EPA and EPA-funded grantees have published that significantly advance the scientific foundation for cumulative risk assessments.
12. Please provide\* all Agency health assessments which have incorporated information on chemical and nonchemical stressors and their cumulative effects. (\*For any such health assessments that have been published, a complete citation, rather than the document itself, will suffice.)

**Technical assistance, training, and environmental education are often needed to build the capacity of a community to better understand the science, regulations, and policies of environmental issues and EPA actions. Through an EPA contract in the Office of**

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**Environmental Justice, the Technical Assistance Services for Communities (TASC) program provides this independent assistance to communities through scientists, engineers, and other professionals who explain technical findings to a community and answer their questions. TASC supported efforts assist communities in working with government agencies and other stakeholders and in participating meaningfully in environmental decision-making processes. These services are provided in response to a community's request—at no cost to the community—and are determined on a project-specific basis. For more information about EJ and grants please see our website (<https://www.epa.gov/environmentaljustice/environmental-justice-grants-funding-and-technical-assistance>).**

**Under the current Administration, the EPA has issued \$2.4 million in grants through EJ Small Grants and EJ Collaborative Problem-Solving Cooperative Agreements. In FY 19, the EPA has awarded 50 grants to local community-based organizations through the Environmental Justice Small Grants program. Of those, 45 are new recipients, 16 are focused on disaster resiliency and emergency preparedness, and 25 are located in Opportunity Zones (OZs).**

Please provide a brief status report on each of the following remaining items described in the EJ 2020 Action Agenda:

13. Has EPA implemented the Technical Guidance for Assessing Environmental Justice in Regulatory Analysis (EJ Technical Guidance), as discussed in the EJ 2020 Action Agenda Chapter 2 on Rulemaking, Action 1.1?

**The EPA continues to deliver on its commitment to promote environmental justice as we work to protect human health and the environment. The EPA has not implemented the Technical Guidance for Assessing Environmental Justice in Regulatory Analysis (EJ Technical Guidance), however, the EPA continues to advance the spirit and intent of Executive Order 12898 by integrating environmental justice in each regulatory action.**

14. Has EPA incorporated scientific advances into the EJ Technical Guidance (Chapter 2, Action 1.2)?
15. Has EPA updated existing guidance documents through lessons learned from the application of the EJ ADP Guide and EJ Technical Guidance (Chapter 2, Action 1.3)?
16. Has EPA developed and conducted training on the EJ ADP Guide and EJ Technical Guidance (Chapter 2, Action 2.1)?
17. Has EPA shared information and advanced the state of knowledge across EPA to promote rigor and consistency in how environmental justice is considered in rules (Chapter 2, Action 2.2)?

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18. Has EPA evaluated EJ analysis plans for existing and prospective rules (Chapter 2, Action 3.1)?

19. Has EPA conducted an assessment of EJ analyses for EPA rules finalized during the preceding three years (Chapter 2, Action 3.2)?

**The EPA developed the Action Development Process (ADP) in order to achieve the timeliest, most efficient, and most effective method for rule development. The process was designed for Agency professionals to develop rules based on sound scientific, economic, legal, and policy analyses. The ADP serves as a framework to ensure issues are addressed during appropriate rule development stages. The ADP includes a list of the statutes and executive orders (e.g. Executive Order 12898 "Federal actions to address environmental justice in minority populations and low-income populations") that rule writers must address in the "Statutory and Executive Order Review" section of their preambles, or that otherwise influence the rulemaking process.**

**EPA's Guidance on Considering Environmental Justice During the Development of an Action is a step-by-step guide that helps EPA staff ask questions and evaluate environmental justice considerations at key points during the development of actions under the ADP, consistent with existing environmental laws and their implementing regulations, as well as E.O. 12898.**

20. Has EPA developed and implemented plans for achieving meaningful community involvement (Chapter 2, Action 4.1)?

21. Has EPA updated best practices for conducting outreach and encouraging meaningful community involvement in rulemaking (Chapter 2, Action 4.2)?

**In 2019, the EPA launched a national webinar series developed in collaboration with state partners. The trainings help states identify, prioritize, and address the needs of at-risk communities facing immediate environmental and public health challenges.**

**The EPA has heard from its state partners about the need for systematic training on environmental justice principles, methods, and practices. The five national training webinars, which are accessible through a publicly available website, will serve as an ongoing resource for state staff and others interested in developing their environmental justice knowledge and expertise. Topics include identifying and prioritizing environmentally-impacted and vulnerable communities, enhancing community involvement in the regulatory process, using an area-wide planning approach to promote equitable development, and application of environmental justice to state environmental impact assessments.**

22. Has EPA established a baseline of how environmental justice has been analyzed in all economically significant rules since Plan EJ 2014 was released (Chapter 2, Measure #1)?

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**In 2010, the EPA published its final Guidelines for Preparing Economic Analyses. The EPA's Guidelines for Preparing Economic Analyses establish a sound scientific framework for performing economic analyses of environmental regulations and policies. These Guidelines went through extensive peer review by the Environmental Economics Advisory Committee of our Science Advisory Board. The EPA added a chapter on conducting Environmental Justice Regulatory Analyses along with releasing an even more detailed, stand-alone guidance on conducting Environmental Justice analyses in the 2014 to 2016 time period. The stand-alone Technical Guidance for Assessing Environmental Justice in Regulatory Actions was also reviewed by our Science Advisory Board. We are in the process of a major update to our Economic Guidelines, including the chapter covering Environmental Justice. The EPA has announced in the Federal Register that we are forming a new subcommittee of the Science Advisory Board to undertake this review (<https://www.govinfo.gov/content/pkg/FR-2019-06-12/pdf/2019-12410.pdf>). There are 11 chapters and the EPA updates chapters of the Guidelines as warranted and as the science evolves. For more information about the Guidelines, including the chapter on Environmental Justice, Children's Environmental Health and Other Distributional Considerations please see the Agency's website (<https://www.epa.gov/environmental-economics/guidelines-preparing-economic-analyses>).**

23. Has EPA provided training to EPA staff involved in the development of environmental justice analysis for rules (Chapter 2, Measure #2)?

**In 2019, the EPA launched a national webinar series developed in collaboration with state partners. The trainings help states identify, prioritize, and address the needs of at-risk communities facing immediate environmental and public health challenges.**

**The EPA has heard from its state partners about the need for systematic training on environmental justice principles, methods, and practices. The five national training webinars, which will be accessible through a publicly available website, will serve as an ongoing resource for state staff and others interested in developing their environmental justice knowledge and expertise. Planned topics include identifying and prioritizing environmentally-impacted and vulnerable communities, enhancing community involvement in the regulatory process, using an area-wide planning approach to promote equitable development, and application of environmental justice to state environmental impact assessments.**

24. Has EPA conducted an assessment of EJ analyses for EPA rules finalized during the preceding three years (Chapter 2, Measure #3)?

**The EPA developed the Action Development Process (ADP) in order to achieve the timeliest, most efficient, and most effective method for rule development. The process was designed for Agency professionals to develop rules based on sound scientific, economic, legal, and policy analyses. The ADP serves as a framework to ensure issues are addressed during appropriate rule development stages. The ADP includes a list of the statutes and executive orders (e.g. Executive Order 12898 "Federal actions to address environmental**

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justice in minority populations and low-income populations”) that rule writers must address in the “Statutory and Executive Order Review” section of their preambles, or that otherwise influence the rulemaking process.

**EPA’s Guidance on Considering Environmental Justice During the Development of an Action is a step-by-step guide that helps EPA staff ask questions and evaluate environmental justice considerations at key points during the development of actions under the ADP, consistent with existing environmental laws and their implementing regulations, as well as E.O. 12898.**

25. Has EPA established a framework and tools for considering environmental justice concerns in permitting (Chapter 3, Action 1.1)?
26. Has EPA trained EPA permit writers on the use of the framework and tools and leverage EPA’s ongoing activities in other regulatory areas (Chapter 3, Action 1.2)?
27. Has EPA designed and implemented a process for “joint learning” with regulatory partners on incorporating environmental justice concerns and meaningful involvement with communities into the permitting process (Chapter 3, Action 2.1)?
28. Has EPA developed tools that enable communities to participate more effectively in the permitting process (Chapter 3, Action 2.2)?
29. Has EPA developed tools for permit applicants (Chapter 3, Action 2.3)?
30. Is EPA considering, for all newly issued EPA permits, whether there are environmental justice concerns present (Chapter 3, Measure #1)?
31. For all EPA-issued permits where environmental justice concerns are identified, is EPA conducting meaningful engagement and establishing appropriate permit terms and conditions to address environmental justice concerns to the extent supported by the relevant information and law, including the use of tools such as monitoring and web-posting of data that increase the availability of information to the public (Chapter 3, Measure #2a)?
32. Where EPA is unable to address identified EJ concerns in EPA permit conditions, is EPA identifying other federal, state or local agencies or other entities who may be able to assist (Chapter 3, Measure #2b)?

**The EPA continues to deliver on its commitment to promote environmental justice for communities across the United States. The EPA elevated the Office of Environmental Justice, along with the National Environmental Policy Act (NEPA) Division and Permitting Policy Division, to the Office of Policy within the Office of the Administrator to enhance collaboration within the EPA.**

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33. Has EPA built upon existing tools (e.g., EJSCREEN) and data to help EPA regional offices and co-regulators (states, tribes and local governments) focus compliance reviews in overburdened communities where there is a high likelihood of facilities' non-compliance with environmental laws (Chapter 4, Action 1.1)?
34. Has EPA achieved more settlements that benefit overburdened communities impacted by pollution violations (Chapter 4, Action 1.3)?
35. Is EPA working with co-regulators to build an environmental justice community of practice on enforcement and compliance issues (Chapter 4, Action 2.1)?
36. Are EPA regional offices engaging each year in joint planning and targeting with the states in their region to collaborate and leverage limited resources as we pursue compliance and enforcement activities in the nation's most overburdened areas (Chapter 4, Action 2.2)?
37. Has EPA improved coordination with tribes to target enforcement and compliance activities in Indian country (Chapter 4, Action 2.3)?
38. Is EPA empowering communities with information about pollution and violations that affect them (Chapter 4, Action 3.1)?
39. Has EPA strengthened communication with communities (including members of the public with limited English proficiency) on enforcement and compliance work that affects them Chapter 4, 3.2)?
40. What is the percent of enforcement actions that have been initiated by EPA in overburdened communities (Chapter 4, Measure #1)?
41. What is the number of compliance and enforcement strategies focused in the most overburdened communities (Chapter 4, Measure #2)?
42. What is the number of EPA enforcement settlements negotiated each year that incorporate environmental monitors and/or transparency tools (Chapter 4, Measure #3a)?
43. Has EPA doubled the total annual national number of settlements achieved that incorporate environmental monitors and/or transparency tools in FY 2015 (Chapter 4, Measure #3b)?

**Since 2011, the Agency has been working to implement the *EPA Policy on Consultation and Coordination with Indian Tribes*. In addition, since 2014, the Agency has been working to implement the *EPA Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples*. Representatives from each EPA program and Regional office meet regularly to facilitate the Agency's implementation of each policy. An example of the EPA's coordination with tribes is the Agency's efforts to solicit tribal input—**



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through consultation and coordination with tribes—on the fiscal year 2020-2023 National Compliance Initiatives (NCIs). The Agency’s consultation took place prior to the selection of its decision to focus enforcement and compliance resources on the most serious environmental violations. Two of the six NCIs— “Reducing Significant Noncompliance with National Pollutant Discharge Elimination System Permits” and “Reducing Noncompliance with Drinking Water Standards at Community Water Systems”—are particularly relevant to Indian country and will involve coordination with tribes on their implementation.

Another example is the Agency’s updating the Enforcement and Compliance History Online (ECHO) database to help Regions engage tribes in focusing compliance reviews in Indian country. ECHO and ECHO’s Drinking Water Dashboard, Water Dashboard, and Pesticides Dashboard now enable tribes, tribal members, and the general public to search for facilities in Indian country and both obtain and assess information about facility compliance with environmental regulations. In addition, ECHO’s EJSCREEN map layer will assist in our ability to identify overburdened communities or locations that also appear to have facilities presenting a high likelihood of non-compliance with environmental laws. The EPA and tribes can use this mapping capability, along with on-the-ground knowledge of tribal communities, to help direct where the Agency should focus its compliance efforts to make a difference in Indian country.

The EPA is targeting enforcement based on environmental problems and public health risks, which may occur more frequently in these communities. For example, in its National Compliance Initiatives for 2020-2023, the EPA is making it an enforcement priority to reduce emissions of VOCs that may adversely affect vulnerable populations as well as hazardous air pollutants from sources located in communities. In implementing the Agency’s Lead Action Plan, multiple Regions have adopted a community-based approach to addressing high blood lead levels, including enforcement. For example, Region 8 conducted 61 lead inspections in the Denver Place-based Initiative area that resulted in 32 enforcement actions. In FY 2018, 657 enforcement actions undertaken by the EPA took place in communities identified with potential EJ concerns through our EJ Screen process discussed below.

The EPA remains committed to advancing environmental justice for communities across the United States. This Administration has elevated its Office of Environmental Justice within the EPA’s Office of Policy to ensure that environmental justice considerations are integrated in the EPA’s decision-making process. The EPA’s work to implement Executive Order 13853 (“Opportunity Zones”) has helped leverage private investment in economically distressed communities, bringing both economic revitalization and environmental improvement.

As stated in the EPA’s Environmental Justice FY 18 Progress Report, the Office of Enforcement and Compliance Assurance (OECA) continues to strengthen the integration of environmental justice into the Agency’s enforcement program – from the problems that are selected for enforcement attention, to the way relief is structured to correct

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noncompliance, and to how EPA communicates with affected communities. The EPA's ongoing work includes reviewing all new cases to determine whether they may affect overburdened communities and, as appropriate, structuring the resolution of enforcement actions to benefit affected communities.

In 2018, the EPA performed 1,007 environmental justice screenings in our enforcement and compliance work. These EJSCREEN reviews serve two purposes. It assures that EPA enforcement personnel working on a case are aware of the potential EJ concerns in a community, and then may look for opportunities to address those concerns, as appropriate. This also allows the Agency to gauge how much of its enforcement work is being done in areas with potential EJ concerns. [As noted above, In FY 2018, 657 cases involved facilities in such areas.]

Through our continued collaborative efforts with states, tribes, and local governments, our work with our partners across the federal government, and our continued work across EPA's program offices, the EPA continues to deliver on its commitment to promote environmental justice as we work to protect human health and the environment.

The EPA recognizes the importance of Congress' need to obtain information necessary to perform its legitimate oversight functions and is committed to continuing to work with your staff to best accommodate the Committee's interests. The EPA has briefed Committee staff on the Agency's efforts regarding environmental justice, and we are working to provide additional information and potential briefings to the Committee to answer remaining questions. As has been discussed with Committee staff, and in line with Agency goals, the EPA is currently focused on several strategic priorities for our environmental justice program. We look forward to continuing to engage with the Committee on the EPA's ongoing environmental justice priorities, including future strategic prioritization and planning.

44. Has EPA developed decision support tools for characterizing prioritizing and evaluating options for solving environmental problems (Chapter 5, Action 1.1)?
45. Has EPA provided outreach and training on community-based decision support tools, including C-FERST, CCAT, EnviroAtlas, and HIA (Chapter 5, Action 1.2)?
46. Has EPA developed and evaluated innovative environmental monitoring tools (Chapter 5, Action 3.1)?
47. Has EPA developed and/or evaluated technologies to control environmental contamination, such as small water treatment systems, community-based participatory research on point-of-use water treatment systems, and green infrastructure (Chapter 5, Action 3.2)?
48. Has EPA characterized cumulative impacts on health of tribal communities (Chapter 5, Action 4.1)?

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The EPA has used a variety of information resources to help the Agency comply with environmental justice concerns for populations across the country. Several mapping tools have been developed and used by the EPA, and the EPA has made several of these available for public use. The EPA recognized the opportunity and the need to develop a single, nationally consistent tool that can be used by the EPA, its governmental partners, and the public to understand environmental and demographic characteristics of locations throughout the United States. Thus, the EPA developed EJSCREEN. EJSCREEN is an environmental justice mapping and screening tool that provides the EPA with a nationally consistent dataset and approach for combining environmental and demographic indicators. EJSCREEN users choose a geographic area; the tool then provides demographic and environmental information for that area. All of the EJSCREEN indicators are publicly-available data. EJSCREEN simply provides a way to display this information and includes a method for combining environmental and demographic indicators into EJ indexes. EJSCREEN includes: 11 environmental indicators (<https://www.epa.gov/ejscreen/overview-environmental-indicators-ejscreen>), demographic indicators (<https://www.epa.gov/ejscreen/overview-environmental-indicators-ejscreen>), and 11 EJ indexes (<https://www.epa.gov/ejscreen/overview-environmental-indicators-ejscreen>). For more information please see the Agency's website on EJSCREEN (<https://www.epa.gov/ejscreen/what-ejscreen>).

49. Has EPA developed tools, indicators and data on community resilience and climate change impacts (Chapter 5, Action 4.2)?

The EPA has developed several tools to help communities anticipate, plan for, and adapt to the changing climate. For instance, the EPA's Adaptation Resource Center (ARC-X) is a resource to help local governments effectively deliver services to their communities even as the climate changes. For more information about ARC-X and other tools please see the Agency's website (<https://www.epa.gov/arc-x/tools-climate-change-adaptation>).

50. Have EPA and EPA-funded grantees piloted the use of community-based research, including of innovative decision support tools, in 30 communities with environmental justice concerns (Chapter 5, Measure #1)?

Technical assistance, training, and environmental education are often needed to build the capacity of a community to better understand the science, regulations, and policies of environmental issues and EPA actions. Through an EPA contract in the Office of Environmental Justice, the Technical Assistance Services for Communities (TASC) program provides this independent assistance to communities through scientists, engineers, and other professionals who explain technical findings to a community and answer their questions. TASC supported efforts assist communities in working with government agencies and other stakeholders and in participating meaningfully in environmental decision-making processes. These services are provided in response to a community's request—at no cost to the community—and are determined on a project-specific basis. For more information about EJ and grants please see our website

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(<https://www.epa.gov/environmentaljustice/environmental-justice-grants-funding-and-technical-assistance>).

**Under the current Administration, the EPA has issued \$2.4 million in grants through EJ Small Grants and EJ Collaborative Problem-Solving Cooperative Agreements. In FY 19, the EPA has awarded 50 grants to local community-based organizations through the Environmental Justice Small Grants program. Of those, 45 are new recipients, 16 are focused on disaster resiliency and emergency preparedness, and 25 are located in Opportunity Zones (OZs).**

51. Is EPA producing annual reports that describe the progress of ongoing research and identify new research that will be conducted as part of ORD's EJ Research Roadmap Chapter 5, Measure #3)?
52. Is EPA seeking input from community representatives and scientific experts on specific EJ science-related activities, science priorities, and the EJ research program overall (Chapter 5, Measure #4)?

**As highlighted in the EPA's FY18 EJ Progress Report, the EPA's Office of Research and Development (ORD) published research reports in the areas of Health Disparities and Cumulative Impacts, Exposure Risk Assessment, Air Pollution Monitoring and Modeling, Water Quality and Modeling, and Adaptive Management and Resilience. Links to these reports (with plain language descriptions) can be found on EPA's Environmental Justice Research website (<https://www.epa.gov/healthresearch/epa-environmental-justice-research>). This site also links to science-based decision support tools for communities with EJ concerns and programs, reports from STAR grantees, and the EPA's other EJ programs.**

53. Is EPA collaborating with states and local governments in specific projects to address environmental and public health challenges in communities through community-based approaches (Chapter 6, Action 1.1)?

**In 2018, the EPA launched the Environmental Justice and Community Revitalization Council (EJCRC) to provide strategic direction for the EPA's community-based work. This convening of senior leaders allows us to better serve communities and coordinate our actions and investments across EPA programs and regions. Additionally, the EJCRC advances cooperative federalism and tracks work at the state level. The EPA also collaborates with a number of external stakeholders, including state governments, to advance environmental justice efforts. For some examples on how the EPA collaborates with state governments please see the EPA's FY 2018 EJ Progress Report ([https://www.epa.gov/sites/production/files/2019-08/documents/ejprogress\\_report\\_fy2018-11.pdf](https://www.epa.gov/sites/production/files/2019-08/documents/ejprogress_report_fy2018-11.pdf)).**

**Likewise, in 2019, the EPA conducted launched a national webinar series developed in collaboration with state partners. The trainings help states identify, prioritize, and address**

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the needs of at-risk communities facing immediate environmental and public health challenges. The EPA has heard from its state partners about the need for systematic training on environmental justice principles, methods, and practices. The five national training webinars, which will be accessible through a publicly available website, will serve as an ongoing resource for state staff and others interested in developing their environmental justice knowledge and expertise. Planned topics include identifying and prioritizing environmentally-impacted and vulnerable communities, enhancing community involvement in the regulatory process, using an area-wide planning approach to promote equitable development, and application of environmental justice to state environmental impact assessments.

54. Is EPA engaging with states in joint planning to pursue compliance and enforcement activities in the nation's most overburdened and vulnerable areas and leverage limited resources (Chapter 6, Action 1.2)?

The EPA is not targeting 100 (or more) overburdened communities for enforcement as recommended by the EJ 2020 Action Agenda. Instead, the EPA is targeting enforcement based on environmental problems and public health risks, which may occur more frequently in these communities. For example, in its National Compliance Initiatives for 2020-2023, the EPA is making it an enforcement priority to reduce emissions of VOCs that may adversely affect vulnerable populations as well as hazardous air pollutants from sources located in communities. In implementing the Agency's Lead Action Plan, multiple Regions have adopted a community-based approach to addressing high blood lead levels, including enforcement. For example, Region 8 conducted 61 lead inspections in the Denver Place-based Initiative area that resulted in 32 enforcement actions. In FY 2018, 657 enforcement actions undertaken by the EPA took place in communities identified with potential EJ concerns through our EJ Screen process discussed below.

The EPA remains committed to advancing environmental justice for communities across the United States. This Administration has elevated its Office of Environmental Justice within the EPA's Office of Policy to ensure that environmental justice considerations are integrated in the EPA's decision-making process. The EPA's work to implement Executive Order 13853 ("Opportunity Zones") has helped leverage private investment in economically distressed communities, bringing both economic revitalization and environmental improvement.

As stated in the EPA's Environmental Justice FY 18 Progress Report, the Office of Enforcement and Compliance Assurance (OECA) continues to strengthen the integration of environmental justice into the Agency's enforcement program—from the problems that are selected for enforcement attention, to the way relief is structured to correct noncompliance, and to how EPA communicates with affected communities. The EPA's ongoing work includes reviewing all new cases to determine whether they may affect overburdened communities and, as appropriate, structuring the resolution of enforcement actions to benefit affected communities.

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In 2018, the EPA performed 1,007 environmental justice screenings in our enforcement and compliance work. These EJSCREEN reviews serve two purposes. It assures that EPA enforcement personnel working on a case are aware of the potential EJ concerns in a community, and then may look for opportunities to address those concerns, as appropriate. This also allows the Agency to gauge how much of its enforcement work is being done in areas with potential EJ concerns. [As noted above, In FY 2018, 657 cases involved facilities in such areas.]

Through our continued collaborative efforts with states, tribes, and local governments, our work with our partners across the federal government, and our continued work across EPA's program offices, the EPA continues to deliver on its commitment to promote environmental justice as we work to protect human health and the environment.

The EPA recognizes the importance of Congress' need to obtain information necessary to perform its legitimate oversight functions and is committed to continuing to work with your staff to best accommodate the Committee's interests. The EPA has briefed Committee staff on the Agency's efforts regarding environmental justice, and we are working to provide additional information and potential briefings to the Committee to answer remaining questions. As has been discussed with Committee staff, and in line with Agency goals, the EPA is currently focused on several strategic priorities for our environmental justice program. We look forward to continuing to engage with the Committee on the EPA's ongoing environmental justice priorities, including future strategic prioritization and planning.

55. Is EPA working with states and local governments to advance the analytic tools that support action on EJ concerns, including EPA's EJ Research Roadmap and EJSCREEN (Chapter 6, Action 1.3)?

As stated, the EPA has used a variety of information resources to help the Agency comply with environmental justice concerns for populations across the country. Several mapping tools have been developed and used by the EPA, and the EPA has made several of these available for public use. The EPA recognized the opportunity and the need to develop a single, nationally consistent tool that can be used by the EPA, its governmental partners, and the public to understand environmental and demographic characteristics of locations throughout the United States. Thus, the EPA developed EJSCREEN. EJSCREEN is an environmental justice mapping and screening tool that provides the EPA with a nationally consistent dataset and approach for combining environmental and demographic indicators. EJSCREEN users choose a geographic area; the tool then provides demographic and environmental information for that area. All of the EJSCREEN indicators are publicly-available data. EJSCREEN simply provides a way to display this information and includes a method for combining environmental and demographic indicators into EJ indexes. EJSCREEN includes: 11 environmental indicators (<https://www.epa.gov/ejscreen/overview-environmental-indicators-ejscreen>), demographic indicators (<https://www.epa.gov/ejscreen/overview-environmental-indicators-ejscreen>), and 11 EJ indexes (<https://www.epa.gov/ejscreen/overview-environmental-indicators-ejscreen>).

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**For more information please see the Agency's website on EJSCREEN**  
(<https://www.epa.gov/ejscreen/what-ejscreen>).

**The EPA's Office of Research and Development (ORD) also has published research reports in the areas of Health Disparities and Cumulative Impacts, Exposure Risk Assessment, Air Pollution Monitoring and Modeling, Water Quality and Modeling, and Adaptive Management and Resilience. Links to these reports (with plain language descriptions) can be found on EPA's Environmental Justice Research website (<https://www.epa.gov/healthresearch/epa-environmental-justice-research>). This site also links to science-based decision support tools for communities with EJ concerns and programs, reports from STAR grantees, and EPA's other EJ programs.**

56. Is EPA working with the Environmental Council of the States (ECOS) and other state and local associations of regulatory agencies to identify and promote best practices, tools, approaches and resources for reducing adverse impacts and promoting meaningful involvement (Chapter 6, Action 2.1)?
57. Is EPA producing and disseminating information on best practices that advance environmental justice (Chapter 6, Action 2.2)?
58. Is EPA ensuring that successes and challenges related to adverse impacts and meaningful involvement are addressed in ongoing high-level meetings between EPA and state and local co-regulators (Chapter 6, Action 3.1)?
59. Is EPA conducting joint planning to establish commitments for work on priorities and projects (Chapter 6, Action 3.2)?
60. Is EPA identifying and conducting training and capacity building activities with state and local co-regulators on environmental justice (Chapter 6, Action 3.3)?
61. Is EPA identifying opportunities for joint research efforts with state and local governments, particularly on aspects relevant to the EJ 2020 Science plan (Chapter 6, Action 3.4)?

**In 2018, the EPA launched the Environmental Justice and Community Revitalization Council (EJCRC) to provide strategic direction for the EPA's community-based work. This convening of senior leaders allows us to better serve communities and coordinate our actions and investments across EPA programs and regions. Additionally, the EJCRC advances cooperative federalism and tracks work at the state level. The EPA also collaborates with a number of external stakeholders, including state governments, to advance environmental justice efforts. For some examples on how the EPA collaborates with state governments please see the EPA's FY 2018 EJ Progress Report ([https://www.epa.gov/sites/production/files/2019-08/documents/ejprogress\\_report\\_fy2018-11.pdf](https://www.epa.gov/sites/production/files/2019-08/documents/ejprogress_report_fy2018-11.pdf)).**

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62. Is EPA establishing a process for developing shared expectations and measuring progress (Chapter 6, Action 4.1)?

63. Is EPA incorporating shared expectations when evaluating program performance (Chapter 6, Action 4.2)?

**The EPA's Lean Management System (ELMS) is a means to promote continuous improvement. It consists of Lean tools and behaviors that assist organizations with sustaining lean activities and ultimately leads to an efficient organization. Our Lean Management System is a complement to Lean activities and is seen as a constant driver towards excellence. The EPA's environmental justice program is currently utilizing ELMS to increase efficiencies within the organization. For more information about EPA's LEAN efforts and ELMS see the Agency's website (<https://www.epa.gov/aboutepa/about-office-continuous-improvement-oci>).**

64. Is EPA offering EJ training to all state and local agencies that are delegated/authorized to implement federal environmental laws and to other state and local agencies as resources allow (Chapter 6, Measure #1)?

65. Is EPA discussing possible joint projects and/or priorities to advance environmental justice in all PPA/PPG and other joint planning meetings held at the senior level between state environmental agencies and EPA Regions (Chapter 6, Measure #2)?

**In 2019, the EPA launched a national webinar series developed in collaboration with state partners. The trainings help states identify, prioritize, and address the needs of at-risk communities facing immediate environmental and public health challenges.**

**The EPA has heard from its state partners about the need for systematic training on environmental justice principles, methods, and practices. The five national training webinars, which will be accessible through a publicly available website, will serve as an ongoing resource for state staff and others interested in developing their environmental justice knowledge and expertise. Planned topics include identifying and prioritizing environmentally-impacted and vulnerable communities, enhancing community involvement in the regulatory process, using an area-wide planning approach to promote equitable development, and application of environmental justice to state environmental impact assessments.**

66. Is EPA advancing consideration of environmental justice in the National Environmental Policy Act review process by implementing environmental justice and NEPA analytic methodologies (Chapter 7, Action 1.1)?

67. Has EPA identified and addressed potential adverse impacts from the commercial distribution of freight and related infrastructure by developing and implementing assessment and engagement tools and programs that promote emissions reduction, better



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planning and sustainable development practices, and enhance the health, safety, quality of life, and meaningful engagement of affected communities (Chapter 7, Action 1.2)?

**In FY18, the Environmental Justice Interagency Working Group (EJ IWG) developed a report—*Promising Practices for EJ Methodologies in NEPA Reviews*—which is a compilation of methodologies used to assess EJ in activities under the National Environmental Policy Act (NEPA). The report can be found on the Agency's website (<https://www.epa.gov/environmentaljustice/environmental-justice-and-national-environmental-policy-act>).**

68. Has EPA strengthened interagency partnerships in the EPA regional offices through Regional EJ IWG partnerships that directly support on-the-ground work in communities to leverage federal agency resources that provide technical assistance to support overburdened communities (Chapter 7, Action 1.3)?

**The Interagency Working Group on Environmental Justice (EJ IWG) continues to have monthly meetings and recently issued the FY18 Progress Report. The EJ IWG also facilitates the active involvement of all Federal agencies to implement Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations." The order states that Federal agencies must identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations.**

**Established through the Order, the EJ IWG provides a forum for Federal agencies to collectively advance environmental justice principles. The EJ IWG works as a federal family to increase local community capacity to promote and implement innovative and comprehensive solutions to environmental justice issues. For more information about the EJ IWG please see the Agency's website (<https://www.epa.gov/environmentaljustice/ej-iwg-framework-collaboration-0>) and the FY 2018 Progress Report (<https://www.epa.gov/environmentaljustice/ej-iwg-fiscal-year-2018-progress-report>).**

69. Has EPA developed a community revitalization strategy in conjunction with the EJ IWG, communities and other federal agencies that complements EPA's core functions and supports communities in achieving their own vision of healthy, sustainable and equitable communities (Chapter 7, Action 2.1)?

**Yes. In 2018, the EPA launched the Environmental Justice and Community Revitalization Council (EJCRC) to provide strategic direction for the EPA's community-based work. This convening of senior leaders allows us to better serve communities and coordinate our actions and investments across EPA programs and regions. Additionally, the EJCRC advances cooperative federalism and tracks work at the state level. The EPA also collaborates with a number of external stakeholders, including state governments, to advance environmental justice efforts. For some examples on how the EPA collaborates with state governments please see the EPA's FY 2018 EJ Progress Report**

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([https://www.epa.gov/sites/production/files/2019-08/documents/ejprogress\\_report\\_fy2018-11.pdf](https://www.epa.gov/sites/production/files/2019-08/documents/ejprogress_report_fy2018-11.pdf)).

The EPA's work to implement Executive Order 13853 ("Opportunity Zones") has helped leverage private investment in struggling communities, bringing both economic revitalization and environmental improvement. Additionally, the EJCRC advances cooperative federalism and tracks work at the state level. The EPA elevated the Office of Environmental Justice to the Office of Policy within the Office of the Administrator to enhance collaboration within the EPA. The Office of Community Revitalization (OCR) (formerly the Office of Sustainable Communities) supports locally-led, community-driven efforts to revitalize local economies and improve environmental and human health outcomes. OCR collaborates with other EPA programs, federal agencies, regional, state, and local governments, and a broad array of nongovernmental and private-sector partners to bring additional resources to communities and to leverage public and private sector investments.

In FY 2018, OCR—along with governmental, community-based organizations and private sector partners—delivered technical assistance to more than 40 communities across the United States. This work included developing action plans and identifying strategies to support reinvestment and reuse of existing community assets (brownfields, open space, main streets, etc.) and infrastructure (water, sewer, road). These efforts supported inclusive economic growth and environmental and public health protection. For more information on the Office of Community Revitalization please see the Agency's website (<https://www.epa.gov/smartgrowth>).

70. Is EPA working with multiple public and private sector organizations to convene the National Funding Resources and Training Summit (Chapter 7, Action 2.2)?

In 2018, the EPA launched the Environmental Justice and Community Revitalization Council (EJCRC) to provide strategic direction for the EPA's community-based work. This convening of senior leaders allows us to better serve communities and coordinate our actions and investments across EPA programs and regions. Additionally, the EJCRC advances cooperative federalism and tracks work at the state level. The EPA also collaborates with a number of external stakeholders, including state governments, to advance environmental justice efforts. For some examples on how the EPA collaborates with state governments please see the EPA's FY 2018 EJ Progress Report ([https://www.epa.gov/sites/production/files/2019-08/documents/ejprogress\\_report\\_fy2018-11.pdf](https://www.epa.gov/sites/production/files/2019-08/documents/ejprogress_report_fy2018-11.pdf)).

Likewise, in 2019, the EPA conducted launched a national webinar series developed in collaboration with state partners. The trainings help states identify, prioritize, and address the needs of at-risk communities facing immediate environmental and public health challenges. The EPA has heard from its state partners about the need for systematic training on environmental justice principles, methods, and practices. The five national training webinars, which will be accessible through a publicly available website, will serve

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as an ongoing resource for state staff and others interested in developing their environmental justice knowledge and expertise. Planned topics include identifying and prioritizing environmentally-impacted and vulnerable communities, enhancing community involvement in the regulatory process, using an area-wide planning approach to promote equitable development, and application of environmental justice to state environmental impact assessments.

71. Is EPA promoting the use of best practices for place-based approaches to achieving community sustainability, equitable development and economic revitalization in overburdened communities (Chapter 7, Action 2.3)?

**Yes.** In 2018, the EPA launched the Environmental Justice and Community Revitalization Council (EJCRC) to provide strategic direction for the EPA's community-based work. This convening of senior leaders allows us to better serve communities and coordinate our actions and investments across EPA programs and regions. Additionally, the EJCRC advances cooperative federalism and tracks work at the state level. The EPA also collaborates with a number of external stakeholders, including state governments, to advance environmental justice efforts. For some examples on how the EPA collaborates with state governments please see the EPA's FY 2018 EJ Progress Report ([https://www.epa.gov/sites/production/files/2019-08/documents/ejprogress\\_report\\_fy2018-11.pdf](https://www.epa.gov/sites/production/files/2019-08/documents/ejprogress_report_fy2018-11.pdf)).

The EPA's work to implement Executive Order 13853 ("Opportunity Zones") has helped leverage private investment in struggling communities, bringing both economic revitalization and environmental improvement. Additionally, the EJCRC advances cooperative federalism and tracks work at the state level. The EPA elevated the Office of Environmental Justice to the Office of Policy within the Office of the Administrator to enhance collaboration within the EPA. The Office of Community Revitalization (OCR) (formerly the Office of Sustainable Communities) supports locally-led, community-driven efforts to revitalize local economies and improve environmental and human health outcomes. OCR collaborates with other EPA programs, federal agencies, regional, state, and local governments, and a broad array of nongovernmental and private-sector partners to bring additional resources to communities and to leverage public and private sector investments.

In FY 2018, OCR—along with governmental, community-based organizations and private sector partners—delivered technical assistance to more than 40 communities across the United States. This work included developing action plans and identifying strategies to support reinvestment and reuse of existing community assets (brownfields, open space, main streets, etc.) and infrastructure (water, sewer, road). These efforts supported inclusive economic growth and environmental and public health protection. For more information on the Office of Community Revitalization please see the Agency's website (<https://www.epa.gov/smartgrowth>).

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72. Is EPA working with the EJ IWG partner agencies to engage business and industry organizations to promote their participation in community-driven efforts to address environmental and economic concerns (Chapter 7, Action 2.4)?
73. Is EPA developing environmental justice criteria for inclusion in the scoring schemes for Federal EJ IWG agencies' grants and cooperative agreements eligibility processes (Chapter 7, Action 3.1)?
74. Is EPA promoting the use and continued development of EPA and other federal agencies' analytic and data tools that enable and encourage our governmental partners and community members to consider and address environmental justice issues (Chapter 7, Action 3.2)?
75. Is EPA partnering with other federal agencies through the EJ IWG to discuss and test new uses for EJSCREEN and other analytic and data tools, as well as share datasets (Chapter 7, Action 3.3)?

**The EPA continues to deliver on its commitment to promote and provide environmental justice for communities across the United States. The EPA is also providing greater certainty to our federal, states, tribal, and local partners; certainty in EPA programs; and certainty in how we communicate risk. This certainty will help to strengthen environmental and public health protections for low-income, minority, indigenous, and disadvantaged communities that are disproportionately likely to live near contaminated lands or be impacted by environmental hazards. Lastly, the EPA elevated its Office of Environmental Justice within the EPA's Office of Policy to ensure that environmental justice considerations are integrated in the EPA's decision-making process.**

**The Interagency Working Group on Environmental Justice (EJ IWG) continues to have monthly meetings and recently issued the FY18 Progress Report. The EJ IWG also facilitates the active involvement of all Federal agencies to implement Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations." The Executive Order states that Federal agencies must identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations.**

**Established through the Executive Order, the EJ IWG provides a forum for Federal agencies to collectively advance environmental justice principles. The EJ IWG works as a federal family to increase local community capacity to promote and implement innovative and comprehensive solutions to environmental justice issues. For more information about the EJ IWG please see the Agency's website (<https://www.epa.gov/environmentaljustice/ej-iwg-framework-collaboration-0>) and the FY 2018 Progress Report (<https://www.epa.gov/environmentaljustice/ej-iwg-fiscal-year-2018-progress-report>).**

**Through our continued collaborative efforts with states, tribes, and local governments, our**

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**work with our partners across the federal government, and our continued work across EPA's program offices, the EPA continues to deliver on its commitment to promote environmental justice as we work to protect human health and the environment.**

76. Is EPA considering the adequacy of an agency's Environmental Justice analysis in 100% of EPA's reviews of Environmental Impact Statements reviewed pursuant to Section 309 of the Clean Air Act, including the implications of climate change and its effects on communities with EJ concerns (Chapter 7, Measure #1a)?

77. In Environmental Impact Statements where environmental justice has been identified as a potential concern, are EPA's comments on the agency's EJ analysis being documented in EPA's Section 309 review letter to the federal agency (Chapter 7, Measure #1b)?

78. Have 100% of all current EPA National Environmental Policy Act reviewers completed training of Promising Practices and the NTP training (Chapter 7, Measure #2)?

**In FY18, the Environmental Justice Interagency Working Group (EJ IWG) developed a report—*Promising Practices for EJ Methodologies in NEPA Reviews*—which is a compilation of methodologies used to assess EJ in activities under the National Environmental Policy Act (NEPA). The report can be found on the Agency's website (<https://www.epa.gov/environmentaljustice/environmental-justice-and-national-environmental-policy-act>).**

79. Is EPA applying best practices of its community-based work through the work of Community Resources Network and the EJ Coordinators (Chapter 8, Action 1.1)?

**The EPA continues to deliver on its commitment to promote environmental justice as we work to protect human health and the environment. Technical assistance, training, and environmental education are often needed to build the capacity of a community to better understand the science, regulations, and policies of environmental issues and EPA actions. Through an EPA contract in the Office of Environmental Justice, the Technical Assistance Services for Communities (TASC) program provides this independent assistance to communities through scientists, engineers, and other professionals who explain technical findings to a community and answer their questions. TASC supported efforts assist communities in working with government agencies and other stakeholders and in participating meaningfully in environmental decision-making processes. These services are provided in response to a community's request—at no cost to the community—and are determined on a project-specific basis. For more information about EJ and grants please see our website (<https://www.epa.gov/environmentaljustice/environmental-justice-grants-funding-and-technical-assistance>).**

**Under the current Administration, the EPA has issued \$2.4 million in grants through EJ Small Grants and EJ Collaborative Problem-Solving Cooperative Agreements. In FY 19, the EPA has awarded 50 grants to local community-based organizations through the Environmental Justice Small Grants program. Of those, 45 are new recipients, 16 are**

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focused on disaster resiliency and emergency preparedness, and 25 are located in Opportunity Zones (OZs).

In 2018, the EPA launched the Environmental Justice and Community Revitalization Council (EJCRC) to provide strategic direction for the EPA's community-based work. This convening of senior leaders allows us to better serve communities and coordinate our actions and investments across EPA programs and regions. Additionally, the EJCRC advances cooperative federalism and tracks work at the state level. The EPA also collaborates with a number of external stakeholders, including state governments, to advance environmental justice efforts. For some examples on how the EPA collaborates with state governments please see the EPA's FY 2018 EJ Progress Report ([https://www.epa.gov/sites/production/files/2019-08/documents/ejprogress\\_report\\_fy2018-11.pdf](https://www.epa.gov/sites/production/files/2019-08/documents/ejprogress_report_fy2018-11.pdf)).

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In FY 2018, OCR—along with governmental, community-based organizations and private sector partners—delivered technical assistance to more than 40 communities across the United States. This work included developing action plans and identifying strategies to support reinvestment and reuse of existing community assets (brownfields, open space, main streets, etc.) and infrastructure (water, sewer, road). These efforts supported inclusive economic growth and environmental and public health protection. For more information on the Office of Community Revitalization please see the Agency's website (<https://www.epa.gov/smartgrowth>).

80. Is EPA strengthening the procedures and practices associated with collecting following-up on and responding to citizen tips and complaints (Chapter 8, Action 1.2)?

Yes. The Agency's environmental justice program is currently utilizing EPA's Lean Management System (ELMS) to increase efficiencies within the organization. ELMS is a means to promote continuous improvement. It consists of Lean tools and behaviors that assist organizations with sustaining lean activities and ultimately leads to an efficient organization. Our Lean Management System is a complement to Lean activities and is seen as a constant driver towards excellence. The EPA's environmental justice program is

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currently utilizing ELMS to increase efficiencies within the organization.

For example, in FY19, the Office of Environmental Justice (OEJ) used ELMS to deliver a tremendous measurable result. Prior to implementation, OEJ's 20-day citizen tips and complaints response success rate varied from 69 percent to 86 percent. In the first full month of implementation, OEJ achieved a perfect 100 percent success rate and are on track to repeat that performance in FY20. For more information about EPA's LEAN efforts and ELMS, see the Agency's website (<https://www.epa.gov/aboutepa/about-office-continuous-improvement-oci>).

81. Is EPA collaborating internally to support community-based approaches (Chapter 8, Action 1.3)?

82. Is EPA implementing a community-based approach in support of its mission of protecting human health and the environment (Chapter 8, Action 2.1)?

The EPA continues to deliver on its commitment to promote environmental justice as we work to protect human health and the environment. Technical assistance, training, and environmental education are often needed to build the capacity of a community to better understand the science, regulations, and policies of environmental issues and EPA actions. Through an EPA contract in the Office of Environmental Justice, the Technical Assistance Services for Communities (TASC) program provides this independent assistance to communities through scientists, engineers, and other professionals who explain technical findings to a community and answer their questions. TASC supported efforts assist communities in working with government agencies and other stakeholders and in participating meaningfully in environmental decision-making processes. These services are provided in response to a community's request—at no cost to the community—and are determined on a project-specific basis. For more information about EJ and grants please see our website (<https://www.epa.gov/environmentaljustice/environmental-justice-grants-funding-and-technical-assistance>).

Under the current Administration, the EPA has issued \$2.4 million in grants through EJ Small Grants and EJ Collaborative Problem-Solving Cooperative Agreements. In FY 19, the EPA has awarded 50 grants to local community-based organizations through the Environmental Justice Small Grants program. Of those, 45 are new recipients, 16 are focused on disaster resiliency and emergency preparedness, and 25 are located in Opportunity Zones (OZs).

In 2018, the EPA launched the Environmental Justice and Community Revitalization Council (EJCRC) to provide strategic direction for the EPA's community-based work. This convening of senior leaders allows us to better serve communities and coordinate our actions and investments across EPA programs and regions. Additionally, the EJCRC advances cooperative federalism and tracks work at the state level. The EPA also collaborates with a number of external stakeholders, including state governments, to advance environmental justice efforts. For some examples on how the EPA collaborates

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with state governments please see the EPA's FY 2018 EJ Progress Report ([https://www.epa.gov/sites/production/files/2019-08/documents/ejprogress\\_report\\_fy2018-11.pdf](https://www.epa.gov/sites/production/files/2019-08/documents/ejprogress_report_fy2018-11.pdf)).

The EPA's work to implement Executive Order 13853 ("Opportunity Zones") has helped leverage private investment in struggling communities, bringing both economic revitalization and environmental improvement. Additionally, the EJCRC advances cooperative federalism and tracks work at the state level. The EPA elevated the Office of Environmental Justice to the Office of Policy within the Office of the Administrator to enhance collaboration within the EPA. The Office of Community Revitalization (OCR) (formerly the Office of Sustainable Communities) supports locally-led, community-driven efforts to revitalize local economies and improve environmental and human health outcomes. OCR collaborates with other EPA programs, federal agencies, regional, state, and local governments, and a broad array of nongovernmental and private-sector partners to bring additional resources to communities and to leverage public and private sector investments.

In FY 2018, OCR—along with governmental, community-based organizations and private sector partners—delivered technical assistance to more than 40 communities across the United States. This work included developing action plans and identifying strategies to support reinvestment and reuse of existing community assets (brownfields, open space, main streets, etc.) and infrastructure (water, sewer, road). These efforts supported inclusive economic growth and environmental and public health protection. For more information on the Office of Community Revitalization please see the Agency's website (<https://www.epa.gov/smartgrowth>).

83. Is EPA strengthening community organizations' awareness and utilization of EPA's and other federal agencies' grant and technical assistance programs (Chapter 8, Action 3.1)?

The EPA's EJ Collaborative Problem-Solving (CPS) Cooperative Agreement Program provides funding for eligible applicants for projects that address local environmental and public health issues within an affected community. The CPS Program assists recipients in building collaborative partnerships to help them understand and address environmental and public health concerns in their communities. The EPA's EJ Small Grants Program supports and empowers communities working on solutions to local environmental and public health issues. The program is designed to help communities understand and address exposure to multiple environmental harms and risks. For more information on EJ grants and technical assistance please see the Agency's website (<https://www.epa.gov/environmentaljustice/environmental-justice-grants-funding-and-technical-assistance>).

84. Is EPA supporting the establishment of a network of past and current recipients of EPA community-based grants through formal networking and information-sharing opportunities (Chapter 8, Action 3.2)?



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**Yes. The EPA continues to deliver on its commitment to promote environmental justice as we work to protect human health and the environment. Technical assistance, training, and environmental education are often needed to build the capacity of a community to better understand the science, regulations, and policies of environmental issues and EPA actions. Through an EPA contract in the Office of Environmental Justice, the Technical Assistance Services for Communities (TASC) program provides this independent assistance to communities through scientists, engineers, and other professionals who explain technical findings to a community and answer their questions. TASC supported efforts assist communities in working with government agencies and other stakeholders and in participating meaningfully in environmental decision-making processes. These services are provided in response to a community's request—at no cost to the community—and are determined on a project-specific basis. For more information about EJ and grants please see our website (<https://www.epa.gov/environmentaljustice/environmental-justice-grants-funding-and-technical-assistance>).**

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85. Is EPA strengthening use of social media and other communications tools to promote the replication of real-life models of success and network building and the wider use of promising practices (Chapter 8, Action 3.3)?

**Yes. In 2018, the EPA launched the Environmental Justice and Community Revitalization Council (EJCRC) to provide strategic direction for the EPA’s community-based work. This convening of senior leaders allows us to better serve communities and coordinate our actions and investments across EPA programs and regions. Additionally, the EJCRC advances cooperative federalism and tracks work at the state level. The EPA also collaborates with a number of external stakeholders, including state governments, to advance environmental justice efforts. For some examples on how the EPA collaborates with state governments please see the EPA’s FY 2018 EJ Progress Report ([https://www.epa.gov/sites/production/files/2019-08/documents/ejprogress\\_report\\_fy2018-11.pdf](https://www.epa.gov/sites/production/files/2019-08/documents/ejprogress_report_fy2018-11.pdf)).**

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(<https://www.epa.gov/smartgrowth>).

86. Is EPA promoting youth engagement and the development of the next generation of leaders proficient in meeting environmental justice challenges (Chapter 8, Action 3.4)?

**Yes. Through the National Environmental Justice Advisory Council (NEJAC), which provides independent advice to the Administrator on broad, cross-cutting issues related to environmental justice, the Agency engages often with organizations that seek youth perspectives. In FY 2018, the NEJAC convened one national in-person and two teleconference public meetings with a total of 383 participants, including community members, EJ stakeholders, and local, state and federal government. The NEJAC received comments from 42 members of the public and worked on two charges to provide recommendations to EPA, including on addressing infrastructure challenges for safe and clean water. As a result of the other charge, the NEJAC produced the report, “*Youth Perspectives on Climate Change: Best Practices for Youth Engagement and Addressing Health Impacts of Climate Change*.” For more information about the report please see the Agency’s website (<https://www.epa.gov/environmentaljustice/recommendations-youth-perspectives-climate-change>).**

87. Is EPA reporting the number of tips and complaints received, broken out by program and location through regional and headquarter office websites (Chapter 8, Measure #1)?

**Yes. The Agency’s environmental justice program is currently utilizing the EPA’s Lean Management System (ELMS) to increase efficiencies within the organization. ELMS is a means to promote continuous improvement. It consists of Lean tools and behaviors that assist organizations with sustaining lean activities and ultimately leads to an efficient organization. Our Lean Management System is a complement to Lean activities and is seen as a constant driver towards excellence. The EPA’s environmental justice program is currently utilizing ELMS to increase efficiencies within the organization.**

**For example, in FY19, the Office of Environmental Justice (OEJ) used ELMS to deliver a tremendous measurable result. Prior to implementation, OEJ’s 20-day citizen tips and complaints response success rate varied from 69 percent to 86 percent. In the first full month of implementation, OEJ achieved a perfect 100 percent success rate and are on track to repeat that performance in FY20. For more information about EPA’s LEAN efforts and ELMS, see the Agency’s website (<https://www.epa.gov/aboutepa/about-office-continuous-improvement-oci>).**

88. Is EPA identifying and working to address tribes’ and indigenous peoples’ EJ concerns when directly implementing environmental programs in Indian country and throughout the United States (Chapter 9, Action 1.1)?

89. Is EPA encouraging tribes to develop written procedures to ensure meaningful involvement and fair treatment of the public in the development and implementation of federally authorized environmental programs (Indian General Assistance Program

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Indicator B.2.6), as well as their own environmental and public health programs (Chapter 9, Action 2.1)?

90. Is EPA providing training to increase public participation and input in EPA's work (Chapter 9, Action 3.1)?
91. Is EPA improving its responsiveness to the environmental and public health concerns of indigenous peoples (Chapter 9, Action 3.2)?
92. Is EPA working with other government agencies (federal, state and local), in partnership with interested tribal governments, to effectively respond to the EJ concerns of tribes and indigenous peoples (Chapter 9, Action 4.1)?
93. Has EPA identified tribes and indigenous peoples' organizations interested in working with EPA to address their environmental justice concerns (Chapter 9, Measure #1)?
94. Is EPA reporting on the number of tribes that have developed and incorporated public participation procedures into their environmental programs, and that have used the procedures for environmental program implementation (Chapter 9, Measure #2)?
95. Is EPA conducting outreach and offering training in each region on EJSCREEN, the EPA Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples, and the EJ 2020 Action Agenda to tribes and identified indigenous peoples' organizations (Chapter 9, Measure #3)?
96. Has EPA developed and implemented a set of indicators to monitor the Agency's efforts to address indigenous peoples' environmental and public health concerns (Chapter 9, Measure #4)?
97. Has EPA developed best practices for its engagement with other federal agencies, states and local governments, and in collaboration with interested tribal governments, regarding how to address the environmental and public health concerns of tribes and indigenous peoples (Chapter 9, Measure #5)?

**Since 2011, the Agency has been working to implement the *EPA Policy on Consultation and Coordination with Indian Tribes*. In addition, since 2014, the Agency has been working to implement the *EPA Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples*. Representatives from each EPA program and Regional office meet regularly to facilitate the Agency's implementation of each policy. An example of the EPA's coordination with tribes is the Agency's efforts to solicit tribal input—through consultation and coordination with tribes—on the fiscal year 2020-2023 National Compliance Initiatives (NCIs). The Agency's consultation took place prior to the selection of its decision to focus enforcement and compliance resources on the most serious environmental violations. Two of the six NCIs—“Reducing Significant Noncompliance with National Pollutant Discharge Elimination System Permits” and “Reducing**

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**Noncompliance with Drinking Water Standards at Community Water Systems”— are particularly relevant to Indian country and will involve coordination with tribes on their implementation.**

Another example is the Agency’s updating the Enforcement and Compliance History Online (ECHO) database to help Regions engage tribes in focusing compliance reviews in Indian country. ECHO and ECHO’s Drinking Water Dashboard, Water Dashboard, and Pesticides Dashboard now enable tribes, tribal members, and the general public to search for facilities in Indian country and both obtain and assess information about facility compliance with environmental regulations. In addition, ECHO’s EJSCREEN map layer will assist in our ability to identify overburdened communities or locations that also appear to have facilities presenting a high likelihood of non-compliance with environmental laws. The EPA and tribes can use this mapping capability, along with on-the-ground knowledge of tribal communities, to help direct where the Agency should focus its compliance efforts to make a difference in Indian country.

98. Has EPA identified concentrated geographic areas with the most overburdened communities where lead exposures are highest (Chapter 10, Lead Action #1)?

**Released in December 2018, the Federal Action Plan to Reduce Childhood Lead Exposures and Associated Health Impacts (Action Plan)** ([https://www.epa.gov/sites/production/files/201812/documents/fedactionplan\\_lead\\_final.pdf](https://www.epa.gov/sites/production/files/201812/documents/fedactionplan_lead_final.pdf)) is a blueprint for reducing lead exposure and associated harms through collaboration among 17 federal agencies and with a range of stakeholders, including states, tribes and local communities, along with businesses, property owners and parents. The Action Plan has four goals with key priorities and objectives that seek to reduce harm to children from exposure to lead: (1) Reduce children’s exposure to lead sources; (2) Identify lead-exposed children and improve their health outcomes; (3) Communicate more effectively with stakeholders; and (4) Support and conduct critical research to inform efforts to reduce lead exposures and related health risks.

Under Goal 4, the EPA has been working diligently to develop a collective agency approach to “generate data, maps and mapping tools to identify high exposure communities or locations and disparities for prioritization efforts to reduce children’s blood lead levels” (Action Plan, page 16). In May 2019, a two-day EPA Lead Mapping Coordination Workshop was held to understand internal lead mapping approaches, develop a coordinated vision for the EPA’s lead mapping framework and lay the groundwork for further collaboration with our federal partners. Outcomes from this workshop identified opportunities to improve lead mapping efficiencies across the EPA (e.g., varying use of housing, sociodemographic and environmental variables/data, data sharing, different analysis models/approaches, etc.), identified gaps in data needs to overlay exposure/risk indices with environmental data to accurately identify communities with high exposure (e.g., CDC state blood lead data) and highlighted the importance of incorporating risk communications.

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On December 4-5, 2019, federal partners including policy makers, regulators and scientific staff from participating agencies of the President's Task Force on Environmental Health Risks and Safety Risks to Children, convened for an Interagency Lead Research Workshop (Goal 4). Workshop goals were to share individual agency progress, identify shared research gaps and opportunities, and prioritize next steps to implement Goal 4 actions in the Action Plan. In addition to broader discussion around lead research, the EPA, HHS/CDC/ATSDR and HUD presented agency-specific overviews of unique approaches to lead mapping, which identified common research priorities and demonstrated the need to strengthen agency methods, models and data sharing across interagency partners (e.g., HUD housing-specific data, CDC blood lead data, EPA environmental data). A number of suggested next steps were acknowledged which will be incorporated into the workshop summary for the President's Task Force to discuss and propose a set of concrete suggestions of next steps, likely in the spring of 2020.

Additional information about specific EPA activities related to lead mapping can be found on the EPA's Lead Action Plan website (<https://www.epa.gov/leadactionplanimplementation>) or in the *Progress Report on the Federal Action Plan to Reduce Childhood Lead Exposures and Associated Health Impacts, October 2019* ([https://www.epa.gov/sites/production/files/2019-10/documents/lead\\_action\\_plan\\_booklet\\_v8\\_004.pdf](https://www.epa.gov/sites/production/files/2019-10/documents/lead_action_plan_booklet_v8_004.pdf)).

99. Has EPA created collaborative strategies and approaches to take action to reduce sources of lead contamination (Chapter 10, Lead Action #2)?
100. Has EPA taken national action to reduce lead in drinking water (Chapter 10, Lead Action #3)?
101. Has EPA taken action to address threats to public health from drinking water (Chapter 10, Small and Tribal Drinking Water Systems Action)?

In April 2019, the EPA released the Implementation Status Report for EPA Actions under the December 2018 Federal Action Plan to Reduce Childhood Lead Exposures and Associated Health Impacts (Status Report) (<https://www.epa.gov/leadactionplanimplementation>). The Status Report describes the EPA activities that are being conducted in support of the Administration's Federal Lead Action Plan to Reduce Childhood Lead Exposures and Associated Health Impacts (Lead Action Plan) (<https://www.epa.gov/newsreleases/trump-administration-unveils-federal-action-plan-reduce-childhood-lead-exposure>). The Action Plan is the product of the President's Task Force on Environmental Health Risks and Safety Risks to Children (Task Force). The Task Force is the focal point for federal collaboration to promote and protect children's environmental health. Established in 1997 by Executive Order 13045, the Task Force comprises 17 federal departments and offices. The Secretary of the Department of Health and Human Services (HHS) and the Administrator of the Environmental Protection Agency (EPA) co-chair the Task Force. The Senior Staff Steering Committee (Steering Committee) is its operational arm. The Action Plan has four goals with key priorities and

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objectives that seek to reduce harm to children from exposure to lead. For more information about the EPA's efforts on lead please see the Agency's website (<https://www.epa.gov/lead/federal-action-plan-reduce-childhood-lead-exposure>).

Additionally, on October 10, 2019, the EPA announced a proposed rule that significantly improves the actions that water systems must take to reduce lead in the nation's drinking water. This action represents the first major overhaul of the Lead and Copper Rule since 1991 and marks a critical step in advancing the Administration's Federal Lead Action Plan to Reduce Childhood Lead Exposures and Associated Health Impacts (Lead Action Plan). Additionally, this effort proposes to improve the protocols for identifying lead, expanding sampling, and strengthening treatment requirements. The proposal would ensure that more water systems proactively take actions to prevent lead exposure, especially in schools, child care facilities, and the most at-risk communities. The EPA is also working with the Department of Housing and Urban Development (HUD) to encourage states and cities to make full use of the many funding and financing options provided by the federal government. For more information please see the Agency's website (<https://www.epa.gov/ground-water-and-drinking-water/proposed-revisions-lead-and-copper-rule>).

102. Has EPA increased support for state, local and tribal governments in their planning efforts and increased involvement in all areas not meeting the PM<sub>2.5</sub> standards (Chapter 10, Fine Particle Air Pollution)?

The EPA monitors fine particle air pollution throughout the U.S. to identify whether an area is meeting the EPA's particulate matter<sub>2.5</sub> (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS) based on data assessed over a three-year period. As noted in our FY18 EJ Progress Report, based on the most recent three-year period, the EPA reported a significant improvement in the percentage of the low-income population living in counties where the particulate matter PM<sub>2.5</sub> NAAQS are being met. The most recent monitoring data from 2015-2017 showed the percentage increased to 86 percent compared to the baseline data of 43 percent from 2006-2008. For more information on EPA's FY18 EJ Progress Report, please see the Agency's website ([https://www.epa.gov/sites/production/files/2019-08/documents/ejprogress\\_report\\_fy2018-11.pdf](https://www.epa.gov/sites/production/files/2019-08/documents/ejprogress_report_fy2018-11.pdf)).

103. Has EPA increased the number of RCRA Corrective Action Program facilities and Superfund Remedial Program sites where human exposure is under control (Chapter 10, Hazardous Waste Sites)?

This Administration is committed to making the EPA's Superfund program a high priority.

The EPA continues to increase the universe of Superfund Remedial Program sites where human exposure is under control. Over the past three years, the number of additional remedial sites with Human Exposure Under Control has averaged 24. The Human Exposure status of a Superfund Remedial can shift if environmental conditions or

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**environmental policies change. Consequently, EPA maintains a rigorous process for regularly monitoring and updating Human Exposure status at Superfund at least annually.**

**Under the Resource Conservation and Recovery Act (RCRA) Corrective Action program, the EPA and implementing states are focusing on cleanups at 3,779 priority 2020 Baseline facilities. The program's Year 2020 Goal is for 95 percent of Baseline facility cleanups to have human exposures under control. As of the end of FY19, the program has met this goal. Since the beginning of FY15 the program has made continued progress, improving from 87 percent of Baseline facilities with human exposures under control to 95 percent (3,299 to 3,586 facilities) with human exposures under control.**

**The Honorable Greg Walden (R-OR)**

1. Are the spending practices the same for each office at EPA?

**Each national program and Regional office at the EPA adheres to appropriations law and federal regulations in the management of its resources. Given that each office may implement different environmental statutes, there is variation in the specific purpose of spending.**

2. Since 1996, the process for setting Federal drinking water regulations has been evidence-based, science driven, and risk informed. Responding to their constituents' understandable angst, some Members of Congress have been quite eager to publicly get the Agency to guarantee a determination to set a national primary drinking water regulation for PFAS under the Safe Drinking Water Act – popularly known as a maximum contaminant level or MCL.
  - a. If the Agency makes this guarantee, wouldn't that make regulating PFAS in treated drinking water subject to successful judicial challenge?

**The EPA must follow the requirements of both the Safe Drinking Water Act and other applicable law and can't prejudge the outcome of a regulatory process. For the EPA's regulatory decisions to be defensible, the agency must follow the processes established by the Safe Drinking Water Act and other applicable laws, like the Administrative Procedures Act. The multistep processes, established in statute by Congress, are designed to ensure public participation, transparency, and the use of the best-available peer reviewed science and other technical information. By adhering to the processes created by Congress in the law, the EPA will build a defensible record to defend agency decisions if challenged in court.**

- b. The Agency has said it wants to decide whether to regulate two PFAS chemicals this calendar year. Do you have a more specific timeline that you can say for when the Agency intends to make this decision?



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**The EPA is committed to following the regulatory development process as established by the Safe Drinking Water Act (SDWA). The EPA has sent the proposed regulatory determination for PFOA and PFOS to the Office of Management and Budget for interagency review. The EPA will work with interagency reviewers to conclude review as expediently as possible and issue the proposed regulatory determination for public comment.**

3. At a meeting last summer, the EPA Brownfields Office told some brownfield program stakeholders that, for brownfield multi-purpose grants, EPA was planning on limiting the amounts that a community could use for assessments and cleanup grants.
  - a. What is the status of the Agency considering and awarding multipurpose grants out of fiscal year 2019 or 2020 funds?

**The EPA released the Brownfields Multipurpose Grant Guidelines in September 2018. In June 2019, the EPA announced the selection of 11 Multipurpose grant recipients for a total fiscal year 2019 award amount of approximately \$8.6 million. To conserve State and Tribal Assistance Grants (STAG) resources, the EPA will alternate the Multipurpose grant competition with the Revolving Loan Fund (RLF) grant competition. The EPA anticipates offering Multipurpose grants again in FY 2021.**

- b. Has EPA since changed its interpretation of the language (i.e. not limit the funds spent per site)?

**In fiscal year 2019, the Multipurpose Grant Guidelines did not include limits for how much assessment and cleanup funding could be spent on one site. However, per the guidelines, selected recipients must complete at least one Phase II assessment, at least one site cleanup, and submit an overall plan for revitalization of the targeted site(s) if they do not already have a plan.**

**The Honorable John Shimkus (R-IL)**

1. Please state your view of what the Renewable Fuel Standard looks like post-2022?

**The statute requires that the EPA establish the appropriate volume targets for years after 2022 and do so no later than 14 months before the volumes apply. The EPA has not yet begun work on the rulemaking to do so, but rather is in the process of first conducting another rulemaking to modify, as also required by the statute, the renewable fuel volume targets for 2020-2022.**

2. I was alarmed by the allegations of “dirty” water being provided to residents in California.
  - a. Please explain EPA’s role under the Safe Drinking Water Act in overseeing the treatment and provision of drinking water in California?

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**The EPA works closely with the state of California to implement the Safe Drinking Water Act (SDWA) and to protect public health and the environment. California has been granted primary enforcement authority for drinking water under SDWA. The EPA provides oversight, training, and technical assistance to the state, in addition to funding through the Public Water System Supervision (PWSS) program and Drinking Water State Revolving Fund (DWSRF) program. But the primary responsibility rests with California.**

- b. Please explain whether the Agency has offered additional technical or legal help to California to manage its compliance with the Safe Drinking Water Act?

**Under its oversight role, the EPA convenes regular management meetings and conducts regular and targeted program evaluations which are used to inform programmatic and technical training needs of both the State and water utilities. These needs are addressed by direct EPA training or EPA presentations at water utility/organization workshops and conferences.**

**Programmatic and legal matters where clarification or federal support, including enforcement, is needed, are raised at the regular management meetings for subsequent follow up action. In addition, the EPA through the Office of Research and Development and Office of Water, hosts free monthly webinars to address the challenges of meeting SDWA requirements by small water systems. The webinars provide the State and utilities with information associated with water system management, operation and maintenance, and treatment.**

- c. What other aid could EPA provide to the community referenced in the hearing to ensure its residents are drinking treated water that meets primary and secondary national drinking water standards for safety, taste, and appearance?

**Public Water Systems (PWSs) serving 10,000 or fewer persons, typically face greater challenges than larger systems due to limited economies of scale. This can mean challenges for the water system's technical, managerial and financial capacity. Reducing the diseconomies of scale faced by these small communities could significantly improve access to reliable and affordable safe drinking water and is a top priority for the Agency and state drinking water programs.**

**The EPA has an expanded opportunity to focus on disadvantaged communities through applications of various provisions under WIIN (Water Infrastructure Improvement for the Nation) and AWIA (America's Water Infrastructure Act of 2018).**

**Section 2104 of the WIIN Act establishes a grant program to assist public water systems in small and disadvantaged communities meet SDWA requirements. In addition, the Drinking Water State Revolving Loan Fund (DWSRF), established by the 1996 amendments to the Safe Drinking Water Act (SDWA), represents a powerful partnership between the EPA and the states that contains elements to partially address this small**

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**system challenge. Recognizing that not all drinking water problems can be solved through new or improved infrastructure, Congress allowed states to take a portion of their annual DWSRF grant to support water system capacity, operator certification, source water protection, training and technical assistance to PWSs. States have the discretion to take up to approximately 31 percent of their capitalization grant for these “Small System Technical Assistance set-asides” and can use these funds to hire state staff or to contract with third party technical experts to provide direct assistance to help small systems build the capacity they need to provide safe drinking water.**

3. Understanding your desire to have the work of the EPA regions mirror that of its headquarters, I wanted to obtain information regarding EPA’s views on the Manufacturing Process Unit exclusion under the Solid Waste Disposal Act (40 CFR 261.4(c)). I have been informed that, in 2017 and 2018, EPA provided training in some, but not all, regions on application of the Manufacturing Process Unit exclusion. After the training, I am told EPA-trained regional officials increasingly began to decline granting regulated entities Manufacturing Process Unit Exclusion – a departure from years of past practice.

- a. Is this fact pattern correct?

**This fact pattern is not accurate. The EPA has not changed how the Manufacturing Process Unit (MPU) exemption has been interpreted or applied and has been consistent in its application of the exemption across the Regions.**

- b. What was the primary reason that this training was needed?

**Training has always been an integral and routine aspect of EPA enforcement and compliance operations throughout the Regions. The EPA has not conducted specific training on the applicability of the MPU exemption at 40 C.F.R. § 261.4(c). In support of the 2017 National Compliance Initiative (NCI) on Reducing Hazardous Air Emissions at Hazardous Waste Facilities and to ensure continued consistency generally, the EPA has held inspector trainings which provide an overview of exemptions, including the MPU exemption. As part of the NCI, EPA Regions and states have inspected hazardous waste units subject to the RCRA air emissions requirements and found instances where facilities have erroneously claimed the MPU exemption on certain equipment.**

- c. Is there a specific reason(s), funding or otherwise, that EPA trained some regions and not others?

**These trainings have been conducted in six of EPA’s Regions, with staff from other Regions travelling to attend or conduct the training. Both new and tenured staff from all ten EPA Regions, as well as inspectors from numerous states, have attended these trainings.**

- d. Have all regions received the same training on this exclusion?

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**The training has been substantively similar across all six regions where training has been conducted.**

- e. If not, please state EPA's reasons for only training some regions. Does this create an uneven national implementation of these requirements?

**These trainings have been conducted in six of EPA's Regions, with staff from other Regions travelling to attend or conduct the training. Both new and tenured staff from all ten EPA Regions, as well as inspectors from numerous states, have attended these trainings.**

4. I understand EPA is continuing to work on a characterization of crumb rubber — a material most commonly known by the public in the form of recycled tires used in artificial turf. Is it the intent of the agency to release this report in whole or in part later this year? If in part, is the agency concerned that releasing data on exposure only, without accompanying data on the risk of such exposure, could unnecessarily alarm the public?

**The timeline the EPA, Centers for Disease Control (CDC), Agency for Toxic Substances and Disease Registry (ATSDR), and the U.S. Consumer Product Safety Commission (CPSC) initially set for the research activities included under the *Federal Research Action Plan (FRAP) on Recycled Tire Crumb Rubber Used on Synthetic Turf Playing Fields and Playgrounds* has been affected by a number of factors including the time needed to obtain important federal approvals and the need to address external peer review comments.**

**A goal of the FRAP is to characterize potential human exposures to the substances contained in recycled tire crumb rubber used on synthetic turf fields. Results of the effort will be reported in two parts. Part 1 (Recycled Tire Crumb Characterization report) communicates the research objectives, methods, results, and findings for the tire crumb rubber characterization research (i.e., what is in the material). Part 1 was released to the public on July 25, 2019. In general, the findings from the report support the premise that while chemicals are present, as expected, in the tire crumb rubber, human exposure may be limited based on what is released into air and/or simulated biological fluids. Part 2, to be released at a later date, will document the results from the exposure characterization (i.e., how people come in contact with the materials, how often and for how long), including a biomonitoring study being conducted by CDC/ATSDR. CPSC is conducting the work on playgrounds and results from that effort will be reported separately.**

**When finalized, neither Part 1 nor Part 2 of this study, separately or combined, will constitute an assessment of the risks associated with playing on synthetic turf fields with recycled tire crumb rubber infill. When this study was ordered in 2016, it was not supposed to be a risk assessment. The results of the research described in the final versions of both Part 1 and Part 2 of this study should inform future risk assessments.**

**For more information, please visit: <https://www.epa.gov/chemical-research/federal-research-recycled-tire-crumb-used-playing-fields>.**

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5. On April 2, USDA released a study that found greenhouse gas emissions from corn-based ethanol are about 39 percent lower than gasoline. The study also found that when ethanol is refined at natural gas-powered refineries, the greenhouse gas emissions are even lower, around 43 percent below gasoline. Has EPA reviewed this study? Does the agency plan to make any adjustments to the RFS program based upon its findings?

**The EPA has reviewed the USDA study as well as a number of other recent studies that report a range of results on the greenhouse gas emissions from corn ethanol. Many of these studies do not adequately address the statutory provisions that govern EPA's lifecycle assessment obligations under the Renewable Fuel Standard (RFS). We continue to monitor the science regarding lifecycle greenhouse gas emissions associated with biofuels. As we complete lifecycle assessments for new fuel pathways, the most recent science and data are incorporated where possible.**

**The Honorable Cathy McMorris Rodgers (R-WA)**

1. I understand you are a fan of appropriate risk communication, especially in affected communities, and that it is a priority for you. Please explain why you believe this and what special initiatives you have ongoing at the Agency to bolster this area?

**Risk communication goes to the heart of EPA's mission of protecting public health and the environment and is one of my top priorities. The agency must be able to speak with one voice and clearly explain to the American people environmental and health risk so that they can understand what is safe and how to protect themselves and their families. EPA is committed to developing a comprehensive, universal approach to risk communications and we are focused on achieving that.**

**Over the past year, the EPA has launched a robust, agency-wide effort to enhance our risk communications efforts. Central to these efforts was the formation of an agency-wide work group, with representation from the program offices, the Administrator's Office and all 10 of the regional offices. The workgroup is focused on identifying and reviewing ongoing risk communications efforts, engaging with the agency's federal advisory committees and other stakeholders, identifying best practices, and continuing to work with our federal partners to help ensure consistency and coordination on cross-cutting issues. Taking this feedback into account, the EPA will develop a robust and revamped risk communications strategy that will be implemented throughout the agency over the coming year.**

2. As you may be aware, the Agency for Toxic Substances and Disease Registry or ATSDR is currently engaged in a PFAS exposure study at Fairchild Air Force Base. This study is looking for the presence of PFAS in bodily fluids, like blood, and assumes any exposure is from drinking water. Unfortunately, ATSDR work on ascertaining the actual health implications of any detections it finds in the next year or two will not be known for another five to seven years.

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- a. Please explain the level of coordination EPA has with ATSDR on these exposure studies?
- b. Please explain how EPA can help communicate actual health risks to this populace so actual biomonitoring detections can translate to understanding and concrete medical protocols?

**The EPA is aware that the ATSDR is engaged in a PFAS exposure study at Fairchild Air Force Base. Information on this study is available at <https://www.atsdr.cdc.gov/pfas/communities/Spokane-County-WA.html>. The EPA will be kept informed of the progress of the study.**

**The EPA has also been working across the federal government to coordinate the review and development of scientific materials related the PFAS chemicals. As part of that cross-agency work, the EPA has reviewed and provided comments on the information collection materials that ATSDR intends to utilize as part of these studies.**

3. One of the Agency's primary goals is to enhance shared accountability or "improve environmental protection through shared governance and enhanced collaboration with state, tribal, local, and federal partners." The budget reduced funding to support state and tribal assistance grants as well as State drinking water implementation activities. Can you please state the rationale for this proposed reduction?

**The protection of human health and the environment, as established in our environmental statutes, is a shared responsibility between the states, tribes, and the federal government. The Agency is committed to working with our state, tribal, and local partners to improve human health and the environment. To this end, the FY 2020 President's Budget includes \$2.7 billion in State and Tribal Assistance Grants funding, including nearly \$2 billion for the State Revolving Funds to support infrastructure development and improvement in communities across America. With strong support from the Administration, the Agency will continue to work closely to coordinate effective partnerships across the federal government, states, tribes, and communities to focus and deliver services more effectively and efficiently.**

**The Honorable Jeff Duncan (R-SC)**

1. Cooperative Federalism is one of the pillars of this Administration's efforts.
  - a. Please describe what this means to you?

**The most important aspect of working with the States, tribes, and local governments is providing certainty across all of our programs. Environmental protection in the United States is, at its very foundation, an intergovernmental partnership, and the EPA understands that most environmental protection – the daily activities that safeguard our**

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**nation's environmental and public health – takes place at the state and local government levels. While the EPA is in the best position to provide national leadership in this arena, the Agency also understands that progress toward national environmental goals is the result of, and achievable only through, effective environmental management in states and communities.**

- b. Please state whether there been any measurable drop off in environmental protection (either from the program or enforcement side) with EPA promoting greater use of cooperative federalism?

**Many of the EPA's statutes allow states and tribes to be designated as the primary implementers and enforcers of the EPA's laws and regulations, whether through implementation of authorized or delegated programs, or because the statute invests states with initial implementation responsibilities. Oversight of state- and tribal-implemented programs consists of activities conducted by the EPA to ensure that states and tribes implement applicable statutes and regulations and make progress toward achieving national environmental goals and expectations. The EPA has outlined four key principles informing the EPA's oversight of state- and tribal-implemented programs: general deference to states and tribes in state- and tribal-implemented programs, effective communication, clear standards of review and predictable processes, and a clear process for elevating issues ([https://www.epa.gov/sites/production/files/2019-04/documents/fep\\_oversight\\_memo.10.30.18.pdf](https://www.epa.gov/sites/production/files/2019-04/documents/fep_oversight_memo.10.30.18.pdf)). As part of those principles the EPA has stated that during its program evaluations, the EPA will pay particular attention to situations where there is significant risk of human health or environmental harm, where program implementation decisions may be precedential or have impacts beyond the state or tribe, or where there are longstanding program implementation issues.**

- c. Please state how EPA intends to build out its work on cooperative federalism in fiscal year 2020?

**Federal statutes are designed so that most federally-prescribed environmental programs can be delegated to states for implementation, with the EPA in a support/oversight role. Nationally, over 90 percent of federal environmental programs that can be delegated have been delegated to states. That statistic notwithstanding, the EPA recognizes that there are always opportunities to broaden and strengthen collaborative efforts with our state and local partners, both in terms of existing/ongoing program management as well as in the development of new rules/regulations. The EPA will continue to seek and pursue these opportunities in fiscal year 2020 and beyond.**

- 2. I would like to discuss the Administration's actions on the methane rule. I have been supportive of repealing the rule and think it is duplicative, unnecessary, and stands as a road block to domestic energy dominance.

America is leading the world in natural gas and oil production-we are producing and exporting more natural gas than ever before. Simultaneously, we are reducing our carbon

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and methane emissions. U.S. carbon emissions are now at a near 20 year low due to the increased use of natural gas.

This environmental success is not attributed to unnecessary government intervention but because of innovative success. According to the International Energy Agency, our Carbon dioxide emission reduction over the past decade has been the largest cut of emissions in the history of energy. This is heavily credited to the development of technologies in the natural gas sector. The United States is the world's leading energy producer and innovator and given our abundant amount of resources we can improve the quality of life to so many around the world.

We have seen that increased domestic energy production in the United States has helped decrease global carbon emissions. We should be promoting policies that incentivize this, not policies that deter investment in the industry, like the Obama methane rule.

3. The Administration's proposed methane rule change will allow drillers a year to do leak inspections instead of just six months and 60 days to make repairs instead of 30. Please provide the reasoning behind this change?

**The changes proposed in 2018 include aligning requirements between the EPA's rule and existing state programs; modifying the frequency for monitoring leaks (also known as "fugitive emissions") at well sites and compressor stations; and, making it easier for owners and operators to use emerging measurement technologies in their leaks monitoring surveys.**

**The proposed changes for the fugitive emissions monitoring and repair program were based on a review of available information and updated analysis. As a result of the review the Agency proposed less frequent monitoring and requested additional information to further refine the analysis for the final rule.**

**Also, several questions were raised during implementation that also required reconsideration of the repair requirements. Specifically, stakeholders asked about the situation where repairs were completed during the 30-day required timeframe, but the resurvey identified the presence of fugitive emissions, indicating unsuccessful repair. The EPA recognized that as promulgated in 2016, the requirements could create unintended noncompliance issues with repairs. Therefore the 2018 proposal defined repairs as including the resurvey to verify repair and extended the repair deadline to account for the resurvey verification.**

4. Is the backlash to this rule change warranted? Will there be a dramatic increase in harmful gases released in the atmosphere as so many are claiming?

**No. The 2016 rule achieves emissions reductions from multiple sources of emissions – not just fugitive emissions sources. The changes proposed in 2018 retain the bulk of these environmental benefits and improve the effectiveness of the 2016 rule. If the changes to the frequency of fugitive monitoring are finalized as the EPA proposed in 2018, the changes**



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**are projected to lead to an increase in emissions of about 20,000 tons of VOC and 76,000 tons of methane in 2025, or roughly 30 percent of the reductions anticipated by the fugitive emissions requirements in the original rule.**

5. I support the dedication to funding the core mission of the Agency. I also think that voluntary programs are a cost-effective way to address environment and public health concerns, particularly as it relates to small businesses that don't have the resources of major companies.
  - a. Has the Agency done a cost-benefit analysis -- or other evaluation -- of its voluntary programs to measure the progress and public health benefits being achieved?

The Agency has not conducted a cost-benefit analysis to measure the progress and public health benefits achieved from its voluntary programs. Measuring the benefits of voluntary programs can be difficult due to a lack of data. We do not have a readily available way to estimate what voluntary program partner organizations would do in the absence of the voluntary program. This knowledge is necessary to determine the impact that the voluntary program has made. However, since 2000, the EPA has published guidelines to help voluntary program managers measure and evaluate partnership programs and supported evaluations and assessments of individual voluntary programs, but these stop short of assessment of benefits and costs to the environment and society more broadly. For example, Guidelines for Measuring EPA Partnership Programs (<https://www.epa.gov/evaluate/guidelines-measuring-performance-epa-partnership-programs-june-2006>); Guidelines for Evaluating EPA Partnership Programs (<https://www.epa.gov/evaluate/guidelines-evaluating-epa-partnership-program-interim-march-2009>); An Assessment of the U.S. Environmental Protection Agency's National Environmental Performance Track Program ([https://www.rand.org/pubs/technical\\_reports/TR732.html](https://www.rand.org/pubs/technical_reports/TR732.html)); EPA Indoor Air Quality (IAQ) Tools for Schools (TfS) Evaluation (<https://www.epa.gov/sites/production/files/2015-09/documents/eval-tools-for-schools.pdf>).

- b. Please provide the Committee this information as well as the range of voluntary programs the Agency currently undertakes?

The EPA implements a wide range of voluntary programs that address environmental and public health concerns. EPA's voluntary programs cut across EPA's mission: to address air quality (e.g., National Clean Diesel Campaign, Indoor Air Quality Tools for Schools, etc.), water quality (e.g., WaterSense, Urban Waters, etc.), chemical safety (e.g., Pesticide Environmental Stewardship Program, Safer Choice, etc.), materials management (e.g., Sustainable Materials Management Program, etc.), and cross-cutting issues (e.g., Smart Sectors). Below is a current list of EPA voluntary programs:

- AgStar
- Coalbed Methane Outreach Program
- Combined Heat and Power Partnership

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- **Community-based Childhood Asthma Programs**
- **ENERGY STAR**
- **Environmentally Preferable Purchasing**
- **Global Methane Initiative**
- **Green Chemistry**
- **GreenChill**
- **Green Power Partnership**
- **Indoor Air Quality Tools for Schools (Indoor Environments)**
- **Indoor airPlus**
- **Landfill Methane Outreach Program**
- **Mobile Air Conditioning Climate Protection Partnership**
- **National Clean Diesel Campaign**
- **Natural Gas Star and Methane Challenge**
- **Pesticide Environmental Stewardship Program (PESP)**
- **Radon Risk Reduction**
- **Residential Wood Smoke Program (Burn Wise Program) and Voluntary Fireplace Program**
- **Responsible Appliance Disposal Partnership**
- **Safer Choice (formerly Design for the Environment)**
- **SF6 Emission Reduction Partnership for the Magnesium Industry**
- **Septic Smart**
- **Smart Sectors**
- **The SmartWay Transportation Partnership**
- **State Energy and Environment Program**
- **Sustainable Materials Management Program (which includes):**
  - **Food Recovery Challenge**
  - **SMM Electronics Challenge**
  - **WasteWise**
  - **U.S. Food Loss and Waste 2030 Champions (with USDA)**
  - **Federal Green Challenge**
  - **America Recycles Pledge**
- **Urban Waters**
- **WaterSense**

**The Honorable David McKinley (R-WV)**

1. I have concerns about requirements for coal ash managed by electric utilities and want to explore a few areas.

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- a. Recently, the DC Circuit Court required EPA to make changes to its existing regulations governing coal ash under the Solid Waste Disposal Act.
  - i. Please provide me an update on efforts to finalize coal ash rule revisions to establish closure deadlines for unlined impoundments.

**In addition to the August 2019 proposed rule addressing beneficial use of CCR (among other issues) that just completed its public comment period and the December 2019 proposed rule to establish closure deadlines for unlined impoundment, the EPA is developing two additional regulatory packages. One addresses revisions to the 2015 CCR rule made necessary by court decisions and experience in implementing the rule. The second package consists of the regulations for the federal CCR permit program authorized by the 2016 WIIN Act. Please see the Fall Regulatory Agenda for additional information: <https://www.reginfo.gov/public/>.**

- ii. What is the status of efforts to revisit the definition of “liner” under these rules?

**Per the D.C. Circuit’s August 21, 2018 decision, the December 2019 proposed rule implements the court vacatur of clay liner definition § 257.71(a)(1)—that is, a clay-lined unit is now considered an unlined unit and is therefore subject to further regulation. Additionally, the proposed rule updates the CFR to reflect the partial vacatur of § 257.101(a)—that is, all unlined units are required to retrofit or close (not just those that have failed location restrictions or have detected groundwater contamination). Lastly, the proposed rule amends the date by which an unlined unit must cease receipt of waste and initiate closure. (§ 257.101(a) and (b)(1)(i)).**

- iii. When is the deadline for both actions?

**There is no deadline for these actions. Regarding establishing new closure deadlines for unlined impoundments, in the EPA’s motion for remand without vacatur, the EPA stated that the quickest it could finalize a rulemaking is nine months. The court recognized that timeframe in their order.**

- b. I was the chief sponsor of coal ash provisions in the 2016 Water Infrastructure Improvements for the Nation Act. This law authorizes states, with EPA approval, to implement and enforce Federal coal combustion residual requirements through state permitting programs; otherwise EPA operates the program in that state.
  - i. When will EPA establish the Federal coal ash permit program as required by law?

**The EPA expects to propose the Federal CCR Permitting Program shortly. Please see the Fall Regulatory Agenda for additional information: <https://www.reginfo.gov/public/>.**

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- ii. What is EPA's timeline for reviewing and approving individual states' coal ash programs?

**The EPA is continuously working with its state partners on state coal ash programs. Once a state has submitted a permit program application and the EPA has determined that the state permit program application is complete, the EPA has 180 days to decide on whether to approve the state program.**

2. As you know, last year the Supreme Court declined to hear case concerning Section 321 of the Clean Air Act, leaving in place a Federal District Court order that EPA begin to implement this section. This provision says Administrator "shall conduct continuing evaluation of potential loss or shifts in employment which may result from the administration or enforcement of" Clean Air Act provisions.
  - a. Can you provide an update for the record on your implementation of this provision?

**On June 29, 2017, the U.S. Court of Appeals for the Fourth Circuit vacated the district court's order and remanded the case with instructions to have *Murray Energy's* suit dismissed for want of jurisdiction [*Murray Energy Corp. v. EPA*, 861 F.3d 529 (4th Cir. 2017)]. *Murray Energy* filed a petition for *certiorari* with the U.S. Supreme Court, which the Court denied [*Murray Energy Corp. v. Pruitt*, 138 S. Ct. 649 (Jan. 8, 2018)]. Therefore, the district court's order remains vacated. Nevertheless, the EPA continues to evaluate employment impacts in the regulatory impact analyses and economic impact assessments that accompany the Agency's Clean Air Act rulemakings.**

3. In the past EPA conducted on its own authority a program similar to Section 321, in conjunction with the Department of Labor from the early 1970s through the early 1980s.
  - a. That program was called the Economic Dislocation Early Warning System, and it was used by EPA to warn the Department of Labor, the Small Business Administration, and the Economic Development Administration of potential job impacts from environmental regulations.
  - b. Would you see that as a model for implementing Section 321?

**EDEWS had a number of methodological and data limitations, as described in the EPA's May 15, 2017, comprehensive filing to the district court. The EPA's Filing in Compliance with this Court's January 11, 2017 Order at 3-4, *Murray Energy Corp v. EPA*, No. 5:14-CV-00039 (N.D. W. Va.). In addition, new laws passed regarding information collection by government agencies would pose additional challenges to re-implementing EDEWS. Nevertheless, in our continuing efforts to evaluate employment impacts, the EPA is committed to ensuring that its work is based on the best available science and technical methods in compliance with applicable laws and guidance.**

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4. EPA has indicated in the past it will work with me to strengthen this provision to help make for a more useful and transparent Section 321 program. Will you commit to working with me on that?

**The EPA is committed to ensuring that its work evaluating employment impacts of regulations is based on the best available science and technical methods in compliance with applicable laws and guidance. The EPA is also committed to continuing to engage with your staff on other ongoing efforts that will further improve the Agency's analytic capabilities in this area.**

5. Last Congress, I introduced the Water Quality Certification Improvement Act, which clarifies Section 401 of the Clean Water Act to prevent abuse by states attempting to unfairly stop energy infrastructure projects. I am planning to reintroduce this legislation soon, and the Executive branch has also discussed taking steps to prevent Clean Water Act abuse.

a. How is the EPA addressing such blatant abuse of a law under its jurisdiction?

**On April 10, 2019, the President issued Executive Order 13868, *Promoting Energy Infrastructure and Economic Growth*, to encourage greater investment in energy infrastructure in the United States by promoting efficient federal permitting processes and reducing regulatory uncertainty.<sup>1</sup> The Executive Order directs the EPA to review Section 401 of the Clean Water Act (CWA) and the EPA's existing CWA Section 401 regulations<sup>2</sup> and guidance, issue new guidance to states and federal agencies within 60 days of the Order, and propose new CWA Section 401 regulations within 120 days of the Order. The Executive Order directs the EPA to consult with states, tribes, and relevant federal agencies while reviewing its existing guidance and regulations to identify areas that would benefit from greater clarity consistent with the Order's policy goals.**

**On June 7, 2019, in accordance with the Executive Order, the EPA released *Clean Water Act Section 401 Certification Guidance for Federal Agencies, States, and Authorized Tribes* which provides clarification and recommendations on CWA Section 401 certifications. The EPA's new guidance, which replaces the Agency's prior interim guidance from 2010, also provides additional recommendations to federal agencies, states and authorized tribes to promote early collaboration and coordination through the CWA Section 401 certification process.**

**The EPA signed a proposed rule to implement CWA Section 401 on August 8, 2019, consistent with the Executive Order.<sup>3</sup> The proposed rule seeks to increase the transparency and efficiency of the water quality certification process and to promote the timely review of permit projects while continuing to ensure that Americans have clean water for drinking**

<sup>1</sup> Exec. Order No. 13868, 84 Fed. Reg. 15,495 (Apr. 15, 2019).

<sup>2</sup> The EPA's existing general section 401 regulations are codified at 40 C.F.R. Part 121.

<sup>3</sup> Updating Regulations on Water Quality Certification, 84 Fed. Reg. 44,080 (Aug. 22, 2019).

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**and recreation. EPA is proposing to modernize and clarify the timeline and scope of CWA Section 401 certification review and action to be consistent with the plain language of the CWA.**

b. How can the EPA and Congress work together to address this problem?

**The EPA looks forward to providing any assistance that Congress requests to address issues related to CWA Section 401 certification.**

6. The EPA's budget highlights the work it is doing to ensure clean water in schools through the creation of the Healthy Schools Grant Program. This proposed grant program would work with state and local partners to address gaps in school environmental health.

a. Can you please elaborate on the kinds of gaps and issues this grant program intends to resolve?

**Starting in preschool through high school, children, teachers and other adults can spend most of their waking hours in school settings, including child/day care and K-12 facilities. Every day, nearly 50 million children and 6 million teachers attend more than 100,000 schools where they can be exposed to a variety of environmental hazards.**

**Building on the EPA's commitment to keeping children safe where they live, learn and play, the Agency has proposed the Healthy Schools Grant Program to identify and address environmental health risks in and around schools that can contribute to increased absenteeism and reduced academic performance. Although the EPA provides grant funding to a range of initiatives focused on addressing risks to children's health, the agency has no comprehensive environmental health management program to support school administrators and others in identifying and addressing some of the most common areas of environmental health concerns found in schools such as asthma triggers, mold, radon, chemical exposures, pesticides, Polychlorinated Biphenyls (PCBs), mercury, asbestos and chemical management in laboratories, for example.**

**The goal of the Healthy School Grant Program is to address the gap in existing support and provide support to state, local and tribal governments as defined in 20 U.S.C. § 7801(30), non-profit organizations (including faith-based schools), and other partners to enable school districts to focus on their greatest local environmental health hazard needs. The ability to target local priorities to make the greatest improvements for children's health while in school is a key EPA priority.**

**The Honorable Bill Johnson (R-OH)**

1. What are your thoughts about risk communication as it relates to PFAS?

**Risk communication goes to the heart of the EPA's mission of protecting public health and**

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**the environment and is one of my top priorities. The agency must be able to speak with one voice and clearly explain to the American people environmental and health risk so that they can understand what is safe and how to protect themselves and their families. The EPA is committed to developing a comprehensive, universal approach to risk communications and we are focused on achieving that.**

Over the past year, the EPA has launched a robust, agency-wide effort to enhance our risk communications efforts. Central to these efforts was the formation of an agency-wide work group, with representation from the program offices, the Office of the Administrator, and all 10 of the regional offices. The workgroup is focused on identifying and reviewing ongoing risk communications efforts, engaging with the agency's federal advisory committees and other stakeholders, identifying best practices, and continuing to work with our federal partners to help ensure consistency and coordination on cross-cutting issues. Taking this feedback into account, the EPA will develop a robust and revamped risk communications strategy that will be implemented throughout the agency over the coming year.

Risk communication and engagement are critical for the EPA to effectively support communities across the country that are addressing PFAS issues. The EPA is actively working to enhance the way in which the Agency communicates about potential human health risks that may be associated with these chemicals. PFAS are a complex group of chemicals that can differ in terms of how they are used, how people are exposed, and how they potentially impact public health and ecosystems. There is also limited scientific information about many of the chemicals in the PFAS family, making it challenging to communicate with the public about their associated health risks. The EPA also supports the efforts of other federal partners to develop information related to PFAS. The EPA continues to take concrete steps, in cooperation with our federal, state, and tribal partners, to communicate how the efforts of the EPA and other federal, state, and tribal agencies help to protect public health and the environment from risks related to PFAS.

2. During a hearing last fall, some of my colleagues were talking about their state's coordinated, rapid-response program to address PFAS contamination, including bedeviling technical questions about risk assessments or appropriate toxicity and reference dose levels in case the state wants to do its own thing?
  - a. For PFAS substances that are only relegated to a few States, is EPA prepared to provide States technical or other rapid response help to aid state cleanup level efforts?
  - b. If not here, what are EPA's plans and what is its strategic approach for using new but unused authority under the reformed Section 4 of the Toxic Substances Control Act to rapidly obtain test data for many TSCA chemicals?

**The EPA works with our state and tribal partners on all issues, including PFAS. The EPA is ready to provide technical assistance to our state and tribal partners on cleanup, analytical, toxicity, and other PFAS issues.**

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**The Honorable Bill Flores (R-TX)**

1. Please state the status of the Agency's efforts to update revisions to the Clean Air Act's Risk Management Program?

**The EPA published a notice of proposed rulemaking to reconsider the Risk Management Program (RMP) Amendments on May 30, 2018 (83 FR 24850). The public comment period for the proposed rule ended on August 23, 2018. The EPA received over 70,000 public comments on the proposed rule. On November 20, 2019, Administrator Andrew Wheeler signed the RMP Reconsideration final rule, which modifies and improves the existing rule to remove burdensome, costly, and unnecessary amendments while maintaining appropriate protections and ensuring first responders have access to all the necessary safety information. This rule also resolves important security concerns. The final rule is expected to be published in the Federal Register in December 2019.**

