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THE FISCAL YEAR 2014 ENVIRONMENTAL PROTECTION AGENCY BUDGET

JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND POWER

AND THE

SUBCOMMITTEE ON ENVIRONMENT AND THE ECONOMY

OF THE

COMMITTEE ON ENERGY AND COMMERCE
HOUSE OF REPRESENTATIVES

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THE FISCAL YEAR 2014 ENVIRONMENTAL PROTECTION AGENCY BUDGET

THURSDAY, MAY 16, 2013

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY AND POWER,
JOINT WITH THE
SUBCOMMITTEE ON ENVIRONMENT AND THE ECONOMY,
COMMITTEE ON ENERGY AND COMMERCE
Washington, DC.

The subcommittees met, pursuant to call, at 10:05 a.m., in room 2123 of the Rayburn House Office Building, Hon. Ed Whitfield (chairman of the Subcommittee on Energy and Power) presiding.

Present from Subcommittee on Energy and Power: Representatives Whitfield, Scalise, Shimkus, Pitts, Terry, Burgess, Latta, Cassidy, Olson, McKinley, Gardner, Pompeo, Griffith, Barton, Upton (ex officio), Rush, McNerney, Barrow, Matsui, Christensen, Castor, and Dingell.

Present from Subcommittee on Environment and the Economy: Representatives Shimkus, Gingrey, Hall, Murphy, Harper, Bilirakis, Johnson, Tonko, Green, DeGette, Capps, Matsui, and Waxman (ex officio).

Staff present: Nick Abraham, Legislative Clerk; Charlotte Baker, Press Secretary; Allison Busbee, Policy Coordinator, Energy and Power; Jerry Couri, Senior Environmental Policy Advisor; Patrick Currier, Counsel, Energy and Power; Brad Grantz, Policy Coordinator, Oversight and Investigations; Tom Hassenboehler, Chief Counsel, Energy and Power; Ben Lieberman, Counsel, Energy and Power; David McCarthy, Chief Counsel, Environment/Economy; Brandon Mooney, Professional Staff Member; Mary Neumayr, Senior Energy Counsel; Andrew Powaleny, Deputy Press Secretary; Chris Sarley, Policy Coordinator, Environment and Economy; Peter Spencer, Professional Staff Member, Oversight; Phil Barnett, Democratic Staff Director; Alison Cassady, Democratic Senior Professional Staff Member; Greg Dotson, Democratic Energy and Environment Staff Director; Kristina Friedman, EPA Detailee; and Caitlin Haberman, Democratic Policy Analyst.

OPENING STATEMENT OF HON. ED WHITFIELD, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF KENTUCKY

Mr. WHITFIELD. I would like to call the hearing to order this morning, and today's topic is the Environmental Protection Agency's fiscal year 2014 budget. We are delighted that the Acting Administrator, Mr. Perciasepe, is here with us today, and had a nice

meeting with him yesterday as well, and we look forward to his testimony, and we really look forward to the question-and-answer period as well. So we welcome him, and I will recognize myself for 5 minutes for—oh, 3? I only get 3 minutes. I recognize myself for 3 minutes for an opening statement.

This morning's hearing is on the Environmental Protection Agency's proposed budget for fiscal year 2014. I might say in the beginning that I don't think America needs to take a back seat to any country in the world when it comes to doing an effective job of maintaining a clean environment, whether it is water, hazardous air pollutants, ozone, ambient air quality standards, clean air, whatever it might be, and even our CO_2 emissions are lower than they have been in 20 years.

Now, the budget for the EPA this year request is $8.153 billion, and the Obama Administration EPA has been as aggressive as any agency in the federal government in recent years. As a matter of fact, in 2012, EPA finalized 635 rules spanning 5,637 pages in the Federal Register, and I think this Administration has demonstrated an ability to take each tax dollar given to it and return to the American people many more dollars in regulatory cost. The Utility MACT Rule alone has been estimated by the Agency, which many people say is conservative, to cost $9.6 billion annually, more than the entire budget proposal for the Agency, and this rule is but one of many recent EPA measures targeting coal-fired electric generation.

Now, President Obama talks about an all-of-the-above policy, and yet his Administration is doing everything possible to eliminate coal from the equation. The rules already issued have closed down over 289 coal-powered plants.

And these regulations go way beyond just coal. EPA's new CAFE rules for cars and small trucks are estimated by the Agency to cost $210 billion by 2025. Now, we know that there are benefits but we also know that when fully implemented these rules alone will add nearly $3,000 to the sticker price of an automobile. And so you ask the question, when do you reach a point of diminishing returns. We know that there are benefits from these regulations but the costs are also very real and many people lose jobs, many people lose their health benefits because of losing their jobs, and frequently, EPA does not even consider those costs.

So this is going to be an interesting hearing. I know that members of this subcommittee have many questions on both sides of the aisle, and we look forward to Mr. Perciasepe's testimony and to the question-and-answer period.

[The prepared statement of Mr. Whitfield follows:]

PREPARED STATEMENT OF HON. ED WHITFIELD

This morning's hearing is on the Environmental Protection Agency's proposed budget for Fiscal Year 2014. And we are pleased to be joined by Acting Administrator Bob Perciasepe to discuss the administration's $8.153 billion dollar proposal.

A clean environment is very important to us all, and I am proud of the improvements in air and water quality that we have seen in Kentucky and across the U.S. over the past forty years. And we all want to see continued progress. For this reason, we need to be especially critical of those EPA budget items that are unwise and wasteful and a detour from the core mission, and unfortunately there appear to be several of them.

And while $8.153 billion dollars may seem like a small part of the Obama administration's massive overall budget proposal, my concern is not only over the expenditures themselves but also with what the agency intends to do with the money. Indeed, the Obama administration's EPA has demonstrated an ability to take each tax dollar given to it and return to the American people many more dollars in unnecessary regulatory costs.

The Utility MACT rule alone has been estimated by the agency to cost $9.6 billion dollars annually, more than the entire budget proposal. And this rule is but one of many recent EPA measures targeting coalfired electric generation. These rules have already resulted in plant shutdowns and lost jobs, and they may lead to higher electric bills and reliability issues as well.

And the regulations go beyond those aimed at coal. EPA's new CAFE/GHG rules for cars and small trucks are estimated by the agency to cost $210 billion dollars by 2025. When fully implemented they will add nearly $3,000 to the sticker price of a new vehicle. And this rule is just one part of EPA's global warming regulatory agenda that is increasingly looking like a very bad deal for the American people and the middle class citizens who rely on affordable and abundant energy resources.

Granted, the agency routinely claims regulatory benefits in excess of the costs. But while the costs are very real, the benefits are more speculative and are often based on inflated estimates of hypothetical lives saved from reducing fine particular matter. According to a recent draft OMB report, EPA's claimed benefits from its air rules alone far eclipses the benefits of all other federal regulatory agencies combined. This simply does not pass the laugh test.

These benefits estimates are especially dubious given that the Clean Air Act has been in place since 1970 and many of the new rules add to already-strict existing measures. For example, coal-fired power plants were sharply reducing their emissions of air pollutants well before the Obama EPA launched its wave of new coal regulations. And the agency's proposed new Tier 3 regulations to reduce sulfur in gasoline comes after Tier 2 regulations have already lowered them by 90 percent. The pattern of new agency rules imposing rising costs but diminishing or nonexistent marginal returns is very worrisome.

While the economic stakes of many EPA rules are quite high, the level of transparency and accountability is not. That is one reason why my colleague Dr. Cassidy has introduced H.R. 1582, the Energy Consumers Relief Act. This bill would provide for Department of Energy review of all energy-related EPA regulations costing a billion dollars or more, and protect the economy from job losses, higher energy prices, and other adverse impacts.

The goal of that bill is the same as the goal of this hearing—to ensure that EPA is on the right path for the environment as well as the economy.

# # #

Mr. WHITFIELD. At this time I will recognize the gentleman from Illinois for 3 minutes.

OPENING STATEMENT OF HON. BOBBY L. RUSH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. RUSH. I want to thank you, Mr. Chairman, and I certainly want to thank you, Acting Administrator Perciasepe, for being here today, and I also want to take a moment to thank all the good people over at the EPA for all their hard work and all their dedication protecting the public health on behalf of the American people.

Mr. Administrator, I do not envy the task that you all face over at the EPA, being responsible for protecting the Nation's land, air and water, especially in a place of cut after cut, criticism after criticism, charge after charge. But I know one thing: the people of my State in Illinois, particularly the people in a place called the village of Crestwood, located in my district, certainly appreciate all the work that you do. EPA played a critical role in helping to finally bring to justice the public officials who are responsible for illegally pumping contaminated water into the homes of my constituents in the village of Crestwood for over 20 years from 1986 to 2007, and

this unlawful act, these actions were investigated and brought to light by an ordinary citizen, Tina Quaff, whose courage and tenacity helped bring this atrocity to the attention of the public and to my attention. And after I wrote a letter to then-Administrator Lisa Jackson in April 2009 calling for a federal investigation, U.S. EPA played a crucial role by working with the Justice Department to execute search warrants and to commence raids on government facilities in order to unearth the full extent of these appalling criminal acts. Due largely to the U.S. EPA's role, just last month on April 29, 2013, Crestwood officials including the water department supervisor and a certified water operator were found guilty of lying about covertly mixing contaminated well water into the village's drinking water supply and now they are facing lengthy prison sentences as a result of their shameful actions of using the public trust.

Mr. Chairman, I can't do anything but applaud Acting Administrator Perciasepe, former Administrator Jackson and all the other hardworking individuals over at the EPA. They have done a fine job, and they have done in this instance and in other instances, they have done a job that the American people expect them to do, and that is to protect the American people's health, protect their public safety and protect the environment, and Mr. Perciasepe, I want to thank you and your Agency for some outstanding work.

Thank you, and I yield back the balance of my time.

Mr. WHITFIELD. The gentleman's time is expired. At this time I will recognize the chairman of the Environment and the Economy Subcommittee, Mr. Shimkus, for 3 minutes.

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

Mr. SHIMKUS. Thank you, Mr. Chairman, and I want to welcome Acting Administrator Perciasepe here, Bob. I didn't see you at baseball practice this morning. We did talk a little baseball yesterday but we were out there at 6:30, so we missed you. But thanks for coming to this oversight hearing on the budget. There are a lot of things we are going to want to know and follow, and especially what the Agency is doing at its core statutory authorized programs, whether it is sticking to Congressional intent or whether hardworking American tax dollars are being used to appropriately, effectively, and efficiently protect against significant risks to human health and the environment, based on the best available and valid science, and whether these laws are enforced fairly and effectively. "Fairly and effectively" is in vogue right now as we see issues of other agencies.

In fact, tomorrow, the subcommittee that I chair will be holding a legislative hearing on small changes to the Superfund, which we sort of addressed yesterday. This law was enacted to clean up the most hazardous waste sites in America, yet after almost 33 years, more than 1,300 sites, and billions of dollars spent, less than 37 percent of these sites have been completely cleaned up, and of course, that is not acceptable. We are glad for the ones that have been totally cleaned up but there are still many remaining.

Just doing things a certain way because that is how we have always done them is not a viable excuse. We need to do a better job.

We need to recognize advancements in technology, reward innovation, cut red tape, and leverage the expertise of state regulators. A case in point is E–Manifest, and I am pleased Congress was finally able to get these changes into law last year and I applaud the Agency's budget for committing resources to its usage. We should not stop there, and I am also encouraged by the greater use of the Internet and other e-technologies to modernize EPA reporting programs, including the guidance supporting Consumer Confidence Reporting under the Safe Drinking Water Act.

On the other hand, I do not believe this is the time for EPA to launch new programs when there is clear evidence it must focus on its legally mandated responsibilities and doing a better job on them within the current budget climate. I want to know more about how EPA wants to use newer technologies to transform existing programs, the Agency's capitalization goals for the drinking water State Revolving Funds and whether we are getting closer to a sustainable SRF program, and the specific timeline for EPA before released Integrated Risk Information Systems assessments have fully, not partially, implemented the important National Academy of Sciences recommendations.

I appreciate that EPA styles itself as a science agency, but its deployment of that science should be beyond reproach. Unfortunately, external review boards have repeatedly called this science into question. To truly protect the public from harm as well as unnecessary negative economic outcomes, we need an unbiased, valid process educating policymakers about the science, not policymakers dictating that science.

Again, I want to thank you for coming, for being in the committee today. I hope you and the EPA will welcome our oversight efforts as a way to openly inform Congress and the American people about the Agency's efforts and all its activities, and I want to end by saying, we have developed a pretty good relationship with some folks in the EPA on legislation. We look forward to continuing to do so in the future, and with that, Mr. Chairman, I yield back.

[The prepared statement of Mr. Shimkus follows:]

PREPARED STATEMENT OF HON. JOHN SHIMKUS

I too want to welcome Mr. Perciasepe to our committee for this joint hearing on the proposed budget and operations plans of the EPA in fiscal year 2014.

We very much want to know what the agency is doing in its core, statutorily authorized programs; whether it is sticking to congressional intent; and whether hard working Americans' tax dollars are being used to appropriately, effectively, and efficiently protect against significant risks to human health and the environment, based on the best available and valid science, and that these laws are enforced fairly and effectively.

In fact, tomorrow, the subcommittee I chair will be holding a legislative hearing on small changes to Superfund. This law was enacted to clean-up the most hazardous waste sites in America, yet after almost 33 years, more than 1300 sites, and billions of dollars spent, less than 37 percent of these sites have been completely cleaned up. That is not acceptable.

Just doing things a certain way because that's how we've always done it not a viable excuse; we need to do better, recognize advancements in technology, reward innovation, cut red tape, and leverage the expertise of state regulators.

Case in point is E–Manifest. I am pleased Congress was finally able to get these changes into law last year and applaud the agency's budget for committing resources to its usage. We should not stop there and I am also encouraged by the greater use of the Internet and other e-technologies to modernize EPA reporting

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- How EPA wants to use newer technologies to transform existing programs.
- The agency's capitalization goals for the drinking water State Revolving Funds and whether we are getting closer to a sustainable SRF program, and
- The specific timeline for EPA before released Integrated Risk Information Systems assessments have fully, not partially, implemented the important National Academy of Sciences recommendations.

I appreciate EPA styles itself as a science agency, but its deployment of that science should be beyond reproach. Unfortunately, external review boards have repeatedly called this science into question. To truly protect the public from harm as well as unnecessary negative economic outcomes, we need an unbiased, valid process educating policymakers about the science, not policymakers dictating that science.

Again, I want to thank Mr. Perciasepe for being with the committee today. I hope he and EPA will welcome our oversight efforts as a way to openly inform Congress and the American people about the agency's efforts and all its activities.

# # #

Mr. WHITFIELD. Thank you. At this time I will recognize the gentleman from New York, Mr. Tonko, the ranking member on the Subcommittee on Environment and the Economy, recognize him for 3 minutes.

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

Mr. TONKO. Thank you, Mr. Chair. Good morning. Thank you, Chair Whitfield and Chair Shimkus, for holding this hearing on the Environmental Protection Agency's budget request for 2014, and welcome, Acting Administrator Perciasepe. Thank you for being here today.

The Environmental Protection Agency has brought us a long way since it was established by President Nixon in 1970. Congress has enacted environmental laws to protect our water, our air, our soil and food supply, and EPA has implemented them. Public health and a clean environment are inextricably linked. Our economy and our population have grown considerably over the past four decades, demonstrating that environmental protection is compatible with economic growth. In fact, if we are willing to make investments in environmental infrastructure such as drinking water treatment and delivery, source water protection, sewage treatment and waste-to-energy systems, we can create thousands of jobs and improve the conditions of our rivers, our lakes and our coastlines. If we do not make these investments, we risk damaging the resources that we require to support a healthy, modern society.

Thoughtless policies like sequestration that blindly cut programs with no regard to their benefit or impact on the public, the environment or the economy will not put our fiscal house in order and can cause extreme damage. Our failure to repair vital infrastructure and to address the complex challenge of climate change has already cost us a great deal. Infrastructure does not repair itself, and the pace and impact of climate change are increasing. We need to address these issues now before the costs rise even further.

The Administration and the Congress should work together to ensure that we maintain and improve upon our record of environmental protection. EPA's budget is an important part of that effort, and I look forward to your testimony here, Administrator Perciasepe, and to working with you and the Agency to continue our progress in environmental protection. We have a uniqueness here to that Agency. We have tremendous mission statements associated with it, and we have an economy to grow. So I look forward to again working with you and the professionals at EPA.

With that, Mr. Chair, I yield back.

Mr. WHITFIELD. Thank you very much.

At this time I recognize the chairman of the full committee, Mr. Upton, for 3 minutes.

OPENING STATEMENT OF HON. FRED UPTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. UPTON. Well, thank you, Mr. Chairman, and I want to begin by acknowledging and applauding the success of our Nation's efforts to protect and improve our environment over the years. Under existing regs, our air quality has improved dramatically. In fact, this is something that our entire country should be proud of. EPA reports that total emissions of toxic air pollutants decreased by about 42 percent between 1990 and 2005, and that between 1980 and 2010, total emissions of the six principal air pollutants dropped by 63 percent.

However, with that success—some might even say in spite of it—the number and scope of EPA regs is continuing to grow without precedent. This administration is seeking to regulate where they failed to legislate, and they are doing so at a furious pace. According to our staff's review, the Agency issued over 600 final rules in 2012, bringing the 4-year total to more than 2,000. Even more striking than the number of new rules is their unaffordable cost. A recent draft by OMB noted that a disproportionate number of the federal government's costliest regs in fact come from the EPA, and especially its Air Office. Rules costing at least a billion dollars are no longer uncommon, and the Nation's struggling economy sadly has to absorb them. And while the cost and expansiveness of EPA rules has increased, the level of transparency about those rules appears to have diminished. Even the billion-dollar rules are issued with more questions than answers, and sometimes that final rule is a big departure from the proposed version. Sometimes the underlying scientific justification is considered confidential and not disclosed. Frequently, the cost data is incomplete and the claimed benefits are speculative and poorly supported. And quite often, the regulated community is not given sufficient guidance as to how they can comply.

And while the Administration is aggressively pursuing regulations within its own jurisdiction, it is also extending its reach beyond. It is continuing to ramp up its greenhouse gas regs, which have the potential to change the way we power our grid by limiting fuel diversity as well as how we permit new industrial facilities.

Another unwelcome example is the Agency's 11th-hour effort to needlessly delay the Keystone XL approval process and the jobs that landmark project would create.

I fear the consequences of EPA's aggressive regulatory expansion for job creation and energy prices, and especially the disproportionate burden on low-income households. That is why I supported the Energy Consumers Relief Act, which would put energy policy back in the hands of the agency with energy in its name, the Department of Energy, by giving DOE the lead role in reviewing all energy-related EPA rules that have in fact a billion-dollar price tag.

EPA does have an important role to play in implementing the Clean Air Act and other federal environmental statutes, and doing so in the manner that Congress envisioned. So I hope this hearing is the first step toward getting the agency on that course, and I yield back.

[The prepared statement of Mr. Upton follows:]

PREPARED STATEMENT OF HON. FRED UPTON

I want to begin by acknowledging and applauding the success of our nation's efforts to protect and improve our environment over the years. Under existing regulations, our air quality has improved dramatically. This is something that our entire country should be proud of—EPA reports that total emissions of toxic air pollutants decreased by approximately 42 percent between 1990 and 2005 and that between 1980 and 2010, total emissions of the six principal air pollutants dropped by 63 percent.

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And while the Obama EPA is aggressively pursuing regulations within its own jurisdiction, it is also extending its reach beyond. It is continuing to ramp up its greenhouse gas regulations, which have the potential to change the way we power our grid by limiting fuel diversity as well as how we permit new industrial facilities. Another unwelcome example is the agency's 11th hour effort to needlessly delay the Keystone XL approval process and the jobs the landmark project would create.

I fear the consequences of EPA's aggressive regulatory expansion for job creation and energy prices, and especially the disproportionate burden on low-income households. That is why I support the Energy Consumers Relief Act, which would put energy policy back in the hands of the agency with energy in its name—the Department of Energy—by giving DOE the lead role in reviewing all energy-related EPA rules that have a billion dollar price tag.

EPA has an important role to play in implementing the Clean Air Act and other federal environmental statutes, and doing so in the manner that Congress envisioned. I hope this hearing is the first step toward getting the agency back on course.

# # #

Mr. WHITFIELD. At this time I would like to recognize the ranking member of the full committee, Mr. Waxman of California, for 3 minutes.

OPENING STATEMENT OF HON. HENRY A. WAXMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. WAXMAN. Thank you, Mr. Chairman.

Acting Administrator Perciasepe, thank you for being here today and for your service to the Nation at the Environmental Protection Agency.

EPA is making our air safer to breathe and our water safer to drink. The agency is on the frontline of our national effort to address climate change. It is a huge responsibility and one that all Americans are counting on you to carry out. I want to take this opportunity to urge you to do everything you can to control carbon pollution. Many different sources and activities contribute to this problem, and we will not be able to address it unless we make reductions across the board. Power plants are of course the largest source of emissions, but so are other major sources like methane from coal mines and oil and gas production. You need to find a way to address all major sources.

Despite the critical importance of your work, the EPA budget represents a tiny portion of overall federal spending. Under the President's proposal for fiscal year 2014, EPA funding would be less than one-quarter of 1 percent of the federal budget. And EPA would share almost 40 percent of these funds with the States and tribes to help them implement federal environmental laws and achieve national goals.

But today we will hear that the Agency's budget is too big. We will be told that we can't afford to invest in clean air, clean water or a safe climate. These extreme positions are endorsed by some very big polluters, but they aren't supported by the American people. American families want clean air and clean water. They don't want their health put at risk by exposure to toxic chemicals. They want their children and future generations to be protected from catastrophic climate change.

We have just crossed a climate threshold. For the first time since humans have lived on our planet, atmospheric concentrations of carbon dioxide have surpassed 400 parts per million. Scientists tell us that we urgently need to act.

But you wouldn't know that from this Committee because our Committee won't let the scientists come in and testify. Since the Republicans took over the House of Representatives, this Committee, which has primary jurisdiction over the climate issue, has refused to hear from scientists about why climate change is so serious.

We need environmental policies that are based on the best science, not ideology. We need an EPA that has enough funds to ensure we keep our moral obligation to future generations. One-quarter of 1 percent of our budget is not too much to spend on clean air, clean water and a healthy environment. In fact, it is

clearly not enough. We need to spend the money. We need to make the commitment. We need to do the job despite those who would like us to abandon that effort and to give in to the polluters and let fossil fuels, like coal and oil, rule the day and cause problems for the future.

I yield back, Mr. Chairman.

[The prepared statement of Mr. Waxman follows:]

PREPARED STATEMENT OF HON. HENRY A. WAXMAN

Acting Administrator Perciasepe, thank you for being here today and for your service to the nation at the Environmental Protection Agency.

EPA is making our air safer to breathe and our water safer to drink. The agency is on the frontline of our national effort to address climate change. It's a huge responsibility and one that all Americans are counting on you to carry out.

I want to take this opportunity to urge you, Mr. Perciasepe, to do everything you can to control carbon pollution. Many different sources and activities contribute to this problem, and we will not be able to address it unless we make reductions across the board. Power plants are of course the largest source of emissions, but so are other major sources like methane from coal mines and oil and gas production. You need to find a way to address all major sources.

Despite the critical importance of your work, the EPA budget represents a tiny portion of overall federal spending. Under the President's proposal for fiscal year 2014, EPA funding would be less than one-quarter of one percent of the federal budget. And EPA would share almost 40% of these funds with the states and tribes to help them implement federal environmental laws and achieve national goals.

But today we will hear that the agency's budget is too big. We will be told that we can't afford to invest in clean air, clean water or a safe climate.

These extreme positions are endorsed by big polluters, but they aren't supported by the American people. American families want clean air and clean water. They don't want their health put at risk by exposure to toxic chemicals.

They want their children and future generations to be protected from catastrophic climate change.

We have just crossed a climate threshold. For the first time since humans have lived on our planet, atmospheric concentrations of carbon dioxide have surpassed 400 parts per million. Scientists tell us that we urgently need to act.

But you wouldn't know that from watching this Committee. Since the Republicans took over the House of Representatives, this Committee has refused to hear from scientists about why climate change is so serious.

We need environmental policies that are based on the best science. And we need an EPA that has enough funds to ensure we keep our moral obligation to future generations. One-quarter of one percent of our budget is not too much to spend on clean air, clean water and a healthy environment. In fact, it's clearly not enough.

Mr. WHITFIELD. That concludes the opening statements, and so Mr. Perciasepe, we appreciate once again your being with us today, and at this time I will recognize you for 5 minutes for your statement.

STATEMENT OF HON. BOB PERCIASEPE, ACTING ADMINISTRATOR, U.S. ENVIRONMENTAL PROTECTION AGENCY

Mr. PERCIASEPE. Chairmen Shimkus and Whitfield, thank you so much. Ranking Members Rush and Tonko, thank you also for your comments, and the members, the ranking and chair of the——

Mr. WHITFIELD. Would you mind moving the microphone just a little closer?

Mr. PERCIASEPE. I think I got the button on but I guess I have to get closer. I was just thanking all the ranking members and chairmen that were here, if people didn't hear that. And if you invite me, I will come.

Thank you for having this hearing on our 2014 fiscal year budget, as you pointed out, Mr. Chairman, $8.153 billion. This is to invest in clean air and clean water, clean land. These are pretty important responsibilities that EPA that have been given to us by Congress but we have also spent quite a bit of time on this budget looking at how we can be more efficient, how we can start looking at different ways to manage our work, and I am looking forward to talking about some of those during the course of our questions and answers.

I just want to run through a couple of quick highlights here so we can get on with the questions and answers. First, I think it has already been mentioned the significant amount of our budget that our grant funds for both infrastructure and State environmental work and despite the fiscal challenges we face, we have maintained those funds in this budget and we have been able to increase the programmatic grants to the States by a slight amount in this budget, which is pretty important when you look at the spread of the responsibility for conducting the environmental work of the country, the mix between the federal and the State budgets and work.

We have also requested a $60 million kick start to a program that we call e-Enterprise at EPA, and I appreciated Chairman Shimkus talking about the e-Manifest program that this Committee and others and the chairman in particular helped get through the Congress last year. We manage all the movement of hazardous waste in the country through paper. I used to think it was the pink and the blue and the yellow, you know, carbon copies, and what we are asking for in funds in this budget is to be able to start the process of getting that into something as ubiquitous in our lives these days as how L.L. Bean or anybody else moves their merchandise around, so we will be able to use electronic means and scanners to be able to keep track of the waste. But more importantly, on e-Enterprise, it is really looking at—it is not some big computer system. It is really looking at the business model of operating an agency that interacts with the public, interacts with the regulated community, interacts with the States in a way that we can conduct more of that business through the modern technology that is available today, and we believe that that will increase transparency, increase compliance. It will reduce errors in data transfer and it will result in widespread savings. We think the e-Manifest system, for instance, and I know that there has been testimony before the committee when you worked on the bill last year in the last Congress, we expect over time to be able to save at least $100 million to the regulated community on that part of it alone.

We also have $176 million to support the work we are doing on greenhouse gases. This not only includes cost-effective and commonsense rulemaking like the automobile standards that were mentioned earlier that we did with the Department of Transportation but also programs that are tried and true and have had great effect like ENERGY STAR, the greenhouse gas reporting system, and SmartWay, which we do with the American trucking industry to look at ways to reduce the fuel and increase the fuel economy and therefore decrease the emissions from long-haul trucks.

Nutrient pollution in water is a major issue confronting the country on a number of fronts, and we have in part of our State grant request $15 million to help the States get a jump start on moving forward with more work on that issue of nutrient pollution in water.

We also have provided funds in the President's budget for the revolving funds. There is $1.1 billion for the Clean Water State Revolving Fund and $817 million for the Drinking Water SRF. But equally important in that program is work we are doing with cities and States to look at integrated planning at the municipal level to look at not only the most cost-effective approaches at solving problems there but also how you work on different types of water pollution problems at the same time so that you can find the most cost-effective ways. So stormwater and sewer problems, trying to work on those together in an integrated planning approach. So not only are we looking at how much funding we need but also we are looking at how we might be able to reduce the costs and the lifecycle costs over the long haul.

We have $1.34 billion for land cleanup. This is Superfund and brownfields programs.

Mr. SHIMKUS. Mr. Chairman, would you get the committee in order so the Acting Administrator can be heard?

Mr. WHITFIELD. I am sorry.

Mr. PERCIASEPE. I am almost done, Mr. Chairman, and I will try to be quick here.

There is also $686 million for our work on chemicals from pesticides to chemicals in commerce. You know, we provide labeling for all the pesticides in use. We also have a number of savings that we have put in this budget and moved some of those funds out of the budget completely and some in to help fund some of these other programs I was mentioning. There are over 20 programs where we reduced the budget by over 10 percent.

And finally, I will just mention in addition to looking at more electronic tools and looking at programs that might be reduced, we are also looking at our space issues. We have reduced our space footprint already over the last 4 or 5 years, 6 years, by about 400,000 square feet of space that we rent around the country and we are looking to continue that process as modern office design and modern laboratory design will move us in that direction. We have already saved almost $6 million a year in energy costs by reducing some of these spaces.

So I am going to stop there. We have a balanced approach here that is looking at not only maintaining programs but also at looking at how we become more efficient for the long haul, recognizing what we all know about the funding issues that confront the Nation. Thank you, Mr. Chairman.

[The prepared statement of Mr. Perciasepe follows:]

TESTIMONY OF
BOB PERCIASEPE

ACTING ADMINISTRATOR
U.S. ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE
House Committee on Energy and Commerce

Joint Subcommittees
on
Energy and Power
&
Environment and the Economy

May 16, 2013

Chairmen Whitfield and Shimkus, Ranking Members Rush and Tonko, and members of the Committee, thank you once again for the opportunity to appear before you to discuss the Environmental Protection Agency's proposed Fiscal Year 2014 budget. I'm joined by the Agency's Acting Chief Financial Officer, Maryann Froehlich.

The President's Fiscal Year 2014 Budget demonstrates that we can make critical investments to strengthen the middle class, create jobs, and grow the economy while continuing to cut the deficit in a balanced way. The Budget also incorporates the President's compromise offer to House Speaker Boehner to achieve another $1.8 trillion in deficit reduction in a balance way. By including this compromise proposal in the Budget, the President is demonstrating his willingness to make tough choices. EPA's budget request of $8.153 billion for the 2014 fiscal year starting October 1, 2013 reflects our ongoing efforts to change the way EPA does business –to invest in more efficient ways for the Agency to operate, to further reduce costs wherever possible all while we preserve and enhance our ability to carry out the Agency's core mission to protect human health and the environment.

The President's budget reinforces our firm commitment to keeping American communities clean and healthy, while also taking into consideration the difficult fiscal situation and the declining resources of state, local and tribal programs.

EPA's requested budget will allow us to continue making progress toward cleaner air, addressing climate change, protecting the nation's waters, supporting sustainable water infrastructure and protecting lands and assuring the safety of chemicals.

It is the product of long discussions and difficult choices. In the end, we believe this budget will enable us to work toward the Agency's goals as effectively and efficiently as possible.

Let me run through a few highlights from the President's FY 2014 budget request.

Despite the fiscal challenges we face, supporting our state and tribal partners, the primary implementers of environmental programs, remains a priority of the EPA. Funding for states and tribes through the State and Tribal Assistance Grants – or STAG – account is once again the largest percentage of the EPA's budget request – at nearly 40 percent in FY 2014. The FY 2014 budget includes a total of $1.14 billion in categorical grants.

We have requested a $60 million investment in an agency-wide initiative to develop new tools and expand systems designed to reduce the regulatory reporting burden on regulated entities, and provide EPA, states, and the public with easier access to environmental data for compliance monitoring and other purposes. This new initiative is fully paid for, so does not add a single dime to the deficit.

This project – what we call "E-Enterprise" – would enable businesses to conduct environmental business transactions with regulators electronically through a single interactive portal, similar to online banking. The paperwork and regulatory reporting burden would be reduced thanks to more efficient collection, reporting, and use of data, in addition to regulatory revisions to eliminate redundant or obsolete information requests. The initiative will encourage greater transparency and compliance.

The result will be widespread savings – for industry and for the states and tribes. For example, E-Enterprise builds on efforts such as the e-manifest system which is projected to reduce reporting costs for regulated businesses by up to a range of $77 - $126 million annually, because it replaces the millions of paper manifests for hazardous waste shipments with a modern tracking and reporting system.

The FY 2014 request also includes $176.5 million to support the agency's work with partners and stakeholders to address greenhouse gas emissions and its impacts. These funds will help reduce emissions – both domestically and internationally – through careful, cost-effective rulemaking and voluntary programs that focus on the largest entities and encourage businesses and consumers to limit unnecessary greenhouse gas emissions.

Some of this funding will support existing, successful approaches like ENERGY STAR, the Global Methane Initiative, the GHG Reporting Rule, and state and local technical assistance and partnership programs, such as SmartWay. $20 million will go towards research, so we can better understand the impacts of climate change on human health and vulnerable ecosystems. Our requested budget contains $175 million to support our Clean Air Act-mandated work to develop, implement and review air quality standards and guidance. This funding will also allow EPA to enhance our support to our state, local and Tribal partners to implement the programs.

Nutrient pollution is one of the nation's most widespread and challenging environmental problems. To assist in tackling this challenge, EPA is requesting an increase of $15 million in

Clean Water Act Section 106 Water Pollution Control grant funding to support states, interstate agencies and tribes that commit to strengthening their nutrient management efforts.

Ensuring that federal dollars provided through the State Revolving Funds support effective and efficient system-wide planning remains a priority for EPA. The FY 2014 budget request includes $1.1 billion for the Clean Water State Revolving Fund and $817 million for the Drinking Water SRF. This money will also assist EPA efforts to expand and institutionalize the use of up-front planning that considers a full range of infrastructure alternatives like "green" infrastructure, so that the right investments are made at the right time, and at the lowest life-cycle cost. This budget request will allow the SRFs to finance approximately $6 billion in wastewater and drinking water infrastructure projects annually.

In FY 2014, the agency is requesting over $1.34 billion for its land cleanup programs to continue to apply the most effective approaches to preserve and restore our country's land. This money will go towards developing and implementing prevention programs, improving response capabilities, and maximizing the effectiveness of response and cleanup actions. The agency is also renewing its request to reinstate the Superfund tax in order to provide a stable, dedicated source of revenue for the Superfund Trust Fund and to restore the historic nexus that parties who benefit from the manufacture or sale of substances that commonly contaminate hazardous waste sites should bear the cost of cleanup when viable potentially responsible parties cannot be identified.

Ensuring the safety of new or existing chemicals in commerce to protect the American people is another top priority. Chemicals are used in the production of everything from our homes and cars to the cell phones we carry and the food we eat. The $686.2 million requested in FY 2014 will allow EPA to continue managing the potential risks of new chemicals entering commerce, without impacting progress in assessing and ensuring the safety of existing chemicals. These resources encompass all efforts across the agency associated specifically with ensuring chemical safety and pollution prevention, including research and enforcement.

EPA's research budget provides $554 million to support critical research in key areas, ranging from chemical safety to water sustainability to climate and energy to human health. This research will help advance the Administration's commitment to healthy communities and a clean energy future.

Finally, let me discuss some steps we are taking to ensure taxpayer dollars are going as far as they possibly can.

The budget includes $54 million in savings by eliminating several EPA programs that have either completed their goals or can be implemented through other federal or state efforts. Adding to these savings and demonstrating a willingness to make tough choices, more than 20 EPA programs, are being reduced by 10 percent or more in FY 2014.

EPA has also been laying the groundwork to ensure the best use of human resources, which will continue in FY 2014. We will continue to analyze our workforce needs to achieve the Agency's mission effectively and efficiently. This is reflected in our FTE request for FY 2014, which is our lowest in 20 years.

We also continue to look for opportunities to consolidate physical space and reduce operating costs at our facilities nationwide. On-going improvements in operating efficiency, combined with the use of advanced technologies and energy sources, have reduced energy utilization and saved nearly $6 million annually.

In FY 2014, we are requesting $17 million in the Building &Facilities appropriation to accelerate space consolidation efforts, which will result in long-term savings in rent and operating costs. By consolidating space, we have, since 2006 released approximately 417 thousand square feet of space at headquarters and facilities nationwide, resulting in a cumulative annual rent avoidance of over $14.2 million.

Mr. Chairman, thank you for the opportunity to testify today. While my testimony reflects only some of the highlights of EPA's budget request, I look forward answering your questions.

Mr. WHITFIELD. Mr. Perciasepe, thanks very much for your statement. At this time we will go into questions and answers, and I will recognize myself for 5 minutes for questions to begin with.

The first comment I would like to make relates to sort of an administrative issue, and that is that last year when the Administrator came to testify about the budget, we had submitted a number of questions that we wanted to be answered as we worked with the appropriators and others trying to make some final decisions about budget numbers and so forth, and unfortunately, it took EPA nearly 11 months to respond to our questions. And so I would just ask for your commitment that you work with us on the questions we are going to be submitting after this hearing and hopefully maybe we can get an answer within 3 months or so instead of 11. So would you agree to work with us on that?

Mr. PERCIASEPE. You have my commitment, Mr. Chairman, and I think we all recognize that the budget windows are tighter than they normally have been on top of what you suggested, so I will make sure that we put the effort necessary so that you have answers to your questions in the time frame that is going to be appropriate for you to work with the appropriators.

Mr. WHITFIELD. Thank you very much. As you know, EPA has a proposed Greenhouse Gas New Source Performance Standard, and if that rule as proposed became final, it would be impossible to build a new coal-powered plant in America because the technology is simply not available to meet the emission standard. And as far as I know, we would be the only country in the world where you cannot build a new coal-powered plant, and by the way, I read the other day that in Europe they are getting ready to build 69 gigawatts of new coal-powered plants in Europe. So with our demand for increasing electricity, I would ask, number one, is EPA going to repropose this rule?

Mr. PERCIASEPE. We are still in the process of looking at all the comment we got on that. A lot of the comment was in the vein that you are talking about here, Mr. Chairman, that what technologies are out there now for coal plants or oil-fired plants or natural gas plants. So we haven't made that kind of a decision at this time. We are still in the process of looking at what the framework might be.

Mr. WHITFIELD. Well, I tell you what, I think it is going to be extremely difficult for the American people to accept the fact that a plant at Texarkana, Arkansas, that opened up in December of last year with the best available technology that it would not be able to meet the emissions standards set in this proposed rule and to believe that a country our size with the electricity demands that we have cannot build a coal plant using the best available control technology is almost unbelievable to me and many other people. And I would ask the question also, it is the first time that I am aware of that EPA ever set an emissions standard using one fuel source that would be applicable to another fuel source. I would ask the question: what is the legal justification for doing that?

Mr. PERCIASEPE. I think the legal framework for that was laid out in the rule that was proposed, and this may sound a little repetitive and I really apologize, but we are looking at that issue along with all the other issues that have been brought up on this rule, and it is going to still require going through some interagency

review process at the federal level. So we are looking at that particular issue, we are looking at the other issue you mentioned, and I want to be clear to the committee that we are not yet done figuring out how to finalize that rule.

Mr. WHITFIELD. Well, I know that the agency is no stranger to lawsuits, and I know that there will be lawsuits filed for whatever, but one of the most contentious parts of this is the fact that you have this emissions standard that is applicable to more than one fuel source, and so I hope that you all will continue to look at that very seriously.

Now, it is bad enough not being able to build a new coal-powered plant but do you all have plans to set greenhouse gas standards for existing coal-powered plants?

Mr. PERCIASEPE. We don't currently have a plan for existing plants because we have to finish what the performance standards would be for new plants of electric-generating facilities. I think contextually we should recognize that the two largest sources of greenhouse gases in the United States are vehicles and electric generation. And so it is pretty logical for the Agency to be looking at those sources at the outset on how we would manage it. I would note in addition to some of the points that you are making that need to continue to be looked at, that the Alliance to Save Energy recently came out with a report that looked at how energy efficiency and energy productivity could actually significantly reduce greenhouse gases just by us being better at using the electricity and fuel for cars that we have. So there are many different options here going forward, and I want to make sure that you all know that.

Mr. WHITFIELD. Well, my time is expired but I am going to be submitting a question to you relating to the Navajo Generating Station in Arizona, which I think there are some real serious issues with. At this time I recognize the gentleman from Illinois, Mr. Rush, for 5 minutes.

Mr. RUSH. Again, thank you, Mr. Chairman.

Mr. Perciasepe, as I stated in my opening statement, I commend you and your agency for the work you all do on behalf of the American people protecting our air quality, protecting our land and protecting our water quality, and as you are well aware, EPA's budget has been a favorite topic of my Republican colleagues who can't disband the Agency, as some of them would prefer. So they are overly and excessively critical of EPA. But I want you to be assured that there are millions of Americans who depend on your agency to be the stewards of the public health and the protectors of our environment.

But once again, your resources are being depleted with the President's fiscal year 2014 budget, which requests a $325 million decrease, or 3.8 percent reduction from the enacted level of fiscal year 2013, and a $296 million decrease, or 3.5 percent decrease from the enacted level for 2012. In fact, Mr. Perciasepe, the President's current request is lower than the fiscal year 2004 enacted level, and these reductions will be felt by my constituents such as those in Crestwood and in other places throughout the Nation. Sometimes they will be felt at the level of life and death, and these are critical reductions. I would like to note that I am concerned about many issues but one of the issues that I am primarily concerned about,

or two of the issues, are, one, poor people in general, minority communities and how, given your reductions, how do you strategize to deal with the issues of minorities and poor people in terms of keeping their standard of air quality, water quality and other environmental issues, keeping them in check or at bay. And I would like for you to specifically, if you would, respond to this enormous $9.8 million cut to the brownfields project. Would you please respond to those questions?

Mr. PERCIASEPE. On the general question of looking at the disproportionate impacts that pollution has on society, this is something that is of critical interest to EPA. It is of critical interest to our State partners and also city governments where those are some of the areas where that may occur, and we are working carefully with our State partners to develop tools and techniques to do those kinds of analysis. One of the key tools we are using now is more robust community involvement in decision making so that we reach out to some of these communities who were not historically involved with the sort of normal government processes. So it is a combination of outreach improvement and analytical tools that we can use to analyze the potential for disproportionate impact of pollution, and we are building these analyses into some of our rulemaking processes so that we can avoid and find ways to mitigate when those impacts might happen. So it is very much on our mind, and we are——

Mr. RUSH. Well, what is going to happen to the brownfields program at EPA, given these drastic cuts to EPA?

Mr. PERCIASEPE. Which program?

Mr. RUSH. Brownfields.

Mr. PERCIASEPE. Brownfields? Well, the brownfields program is reduced slightly in this budget from the enacted 2012 and obviously it was reduced in 2013 by the sequestration process, but it will slow down. It is an oversubscribed program. It is one that brings land in developed areas that had been used in the past, it brings it back into productive use, sometimes for manufacturing. In fact, that is one of the things we are working on in an Administration-wide manufacturing initiative, but it also sometimes comes in for other community-related uses. So yes, the brownfield program is robust, it is in the budget, but it will be a reduced amount and so there will be fewer brownfields projects in 2014.

Mr. WHITFIELD. The gentleman's time is expired. At this time I will recognize the gentleman from Illinois, Mr. Shimkus, for 5 minutes.

Mr. SHIMKUS. Thank you, Mr. Chairman.

Mr. Perciasepe, I am going to try to get through four questions pretty quick, and I kind of gave the intro in the opening statement. So I am going to first go through the Drinking Water State Revolving Fund. What are your capitalization goals for the Drinking Water State Revolving Fund, and are we getting any closer to a sustainable State Revolving Fund Program?

Mr. PERCIASEPE. When I look at—I think we are always getting closer, as long as we can continue to put capitalization grants in the budget. We are staying ahead of inflation and we are building those funds through the whole country. Last year, the combined revolving funds produced $7.7 billion of infrastructure investment be-

cause it is made up of a capitalization grant that you all approved, the State match to that grant, the repayments that are now are coming in between $3 and $4 billion a year, and the leveraging that States are doing with their funds blending in municipal or revenue bonds into it. So when you mix all of that together, the investment we are making here is leveraged because these banks are getting bigger and bigger. I think that this is a long-term issue we all have to discuss and wrestle with on how big you want those banks to be before we feel like the federal component is there. We think we need to stay ahead of inflation and we still think we need to be putting some capitalization into those banks. There is a huge need.

Mr. SHIMKUS. Yes, there is huge need, a lot of interest, a good program. So that is why I wanted to put my focus there.

I want to also talk about the IRIS program, and the National Academy of Sciences, and really just a caution. We will have these fights here on the dais and in the room on science, what is the real science. I think it would be helpful for the EPA to make sure that the substantive changes are in line with the National Academy of Sciences and that you hold as close as you can to that because then that takes really a pretty arguable point off the table for anyone if we are using a clear, science-based proposal. Does that make sense?

Mr. PERCIASEPE. Yes, absolutely, and there are two things going on that I just want to make sure you have on your table when you are thinking about this. The first is, we have asked the National Academy to sort of look at the progress we are making and so they are in that process again, so we keep linked up with them. Second, we are shortly going to come out with another set of improvements to the program that we have been working on, again, keeping in line with the original National Academy. So we are saying link with the National Academy to have them keep looking at it as we are making these improvements, and we have another batch coming up. So we are very keen on exactly what you are saying.

Mr. SHIMKUS. On the e-Manifest, would $2 million be enough for you to get started in fiscal year 2014?

Mr. PERCIASEPE. I think we need a little more than $2 million. I know that is what the authorized amount was. There is a little hop, skip and a jump here with whatever you want to call 2013. We need to put a little extra money in there, and I don't know the exact amount but I think we have $4 million. I can get you the precise number, but we have a little bit more in the budget.

Mr. SHIMKUS. Great. That is why we ask these questions, and we look forward to working with you and we will evaluate that.

Mr. PERCIASEPE. Four point four is in the budget.

Mr. SHIMKUS. The last part of my line of questioning really deals with kind of local interest. This past April, press reports indicated, and you all confirmed, that had released personally identifying information for thousands of farmers and ranchers. What recourse do the folks have whose information was leaked?

Mr. PERCIASEPE. We have no evidence that any of the information was leaked. I think we have been able to——

Mr. SHIMKUS. But you confirmed that the information was——

Mr. PERCIASEPE. We got that information from the States. I think it was released without the appropriate review that it needed to have, and we have now done that review several times over, and I am pretty confident that where we are now it is in good shape. However, we have been working with the people who received it both in the ag community and in the NGO community to not release and change back the information.

Mr. SHIMKUS. Let me ask a final question. Were any of the FOIA processing fees waived by EPA for this request for information, and if so, on what grounds? And if you don't have that available, if you could let me know, I would appreciate it.

Mr. PERCIASEPE. I can get you the precise information.

Mr. SHIMKUS. Thank you. I yield back, Mr. Chairman.

Mr. WHITFIELD. The gentleman's time is expired. At this time I recognize Mr. Tonko for 5 minutes.

Mr. TONKO. Thank you, Mr. Chair, and Administrator Perciasepe, again, thank for your leadership.

EPA is required to conduct a drinking water infrastructure survey every 4 years and to produce a report to Congress summarizing the survey results. That last report was delivered, as you know, in 2009. Is the Agency on track to complete its report sometime this year?

Mr. PERCIASEPE. I believe we are. I know that it is in the final stages of review. I am saying I don't see a reason that it won't get done this year.

Mr. TONKO. Thank you. And the 2009 report indicated a need for investment of over $300 billion over the next two decades, an average of about $16 billion per year. That is to maintain safe drinking water for our citizens. I am concerned that with budget cuts and the sequester that we are falling even farther behind in maintaining these vital systems, and when you consider situations like those we in New York have experienced with Hurricanes Irene, Lee and Sandy, the need to harden these systems or redesign them creates yet another bit of additional challenge. How have the revolving loan funds that provide support for this work fared under the current sequestration? Are we going to be able to meet the needs of hurricane-impacted areas?

Mr. PERCIASEPE. Well, in terms of the hurricane-impacted areas, we had a separate appropriations for Superstorm Sandy, which was around $600 million. It did get trimmed by the sequestration, but I want to say that the appropriations to deal with that storm and its aftermath are not only in EPA, they are also in the Army Corps of Engineers, FEMA and in HUD, and what we are working on very hard with the States, and we have very good connection with the States and very good interagency federal level, is how those funds can work together. So the FEMA funds can look simplistically, we build things to the way we are. The HUD funds could be used to extend beyond the sewage treatment plant itself and look at some of the infrastructure coming in, and as they are looking at neighborhood and community rehabilitation, and we can look to the EPA funds, which are small comparatively to the other ones, as to how you would make resiliency improvements at the facilities themselves, you know, elevating pumps or flood-proofing electronic

boxes and improving the emergency backup power systems. So I think we are in good shape for the hurricane-damaged areas.

In terms of the overall needs of the safe drinking water program for the United States, you know, that mix of federal funds and local funds is something that is a constant back and forth, because if you look at just the federal funds, it looks like it will be a long time before we would meet those needs. So we really have to look at what the local bonding authorities are and funding as well as the federal together. There is still not enough to do these things in the 20-year time frames that are looked at in these surveys. However, we are also looking at how we can reduce costs, find more cost-effective ways to do it like green infrastructure. I am sorry. That is a long answer to your question.

Mr. TONKO. No, I appreciate that, but the $16 billion per year you believe is something that we are falling short of in terms of any of the creative financing that we could come up with?

Mr. PERCIASEPE. Well, certainly the federal government isn't covering $15 billion a year, but the other sources that are out there including things like the Rural Utility Service in the Department of Agriculture and Army Corps of Engineers and others as well as the local funding, you don't have the number, whether it is at that level across the country.

Mr. TONKO. And in terms of facing significant costs, is that not the case if drinking water systems are deficient? There is an impact here that we can't escape.

Mr. PERCIASEPE. If they are not up to date?

Mr. TONKO. If they are not up to date, if there is delayed response.

Mr. PERCIASEPE. Well, the longer you delay maintenance and capital upgrades, which is obviously part of the needs, the ongoing capital upgrades, it can cost more in the future. You know, if you don't keep the pipes and the pumping stations and everything up to date or replaced in a proper time, you know, it is just like bridges and any other infrastructure, eventually it costs more to fix them in the future. So it is important that we continue focusing on this at the national level to make sure that we have funds to do that.

Mr. TONKO. And obviously the States would have to make up this difference, which is a huge.

Mr. PERCIASEPE. Well, States and/or local governments are often the ones that are funding these water infrastructure projects.

Mr. TONKO. Has anyone quantified jobs as they relate to these sort of projects?

Mr. PERCIASEPE. Yes, we look at the jobs, and in fact, when we did the Recovery Act, there was a $6 billion influx into these funds, and I don't have them here with me but we have the calculations of the jobs created by that, which is a good indicator of the jobs that are created. But in the last 4 years, we have put a little over $20 billion into these revolving funds, which has been a boost to getting ahead a little bit.

Mr. TONKO. Thank you very much, and Mr. Chair, I yield back.

Mr. WHITFIELD. At this time I recognize the gentleman from Texas, Mr. Barton, for 5 minutes.

Mr. BARTON. I was on the phone a little bit earlier. My hometown was hit by a tornado last night, and my staff was downtown and giving me a report on the damage. We had millions of dollars of damage. The tornado hit approximately a mile from my home and my Congressional office, but at least in Ennis, Texas, nobody was injured. We did have at least six deaths in the area. So that is why I was on the phone getting that report.

We appreciate you being here, sir, as the Acting Administrator. We have a new tradition that we allow people out in the country to Twitter in questions for members to ask, and we have gone through some of them, and we have a question from a constituent of mine actually, Crodagnonman, C-r-o-d-a-g-n-o-n-m-a-n, Crodagnonman, if I am saying that right. He is referring to a Competitive Enterprise Institute story that some research has been done comparing the request to have Freedom of Information Act fees waived. They did a review of some of the requests and found that left-of-center groups seemed to have a very good chance to have their fee request approved while right-of-center groups had almost no chance. They looked at some information for the last year and said that in January 2012 to this spring, the National Resource Defense Council, Sierra Club, Public Employees for Environmental Responsibility, Earth Justice had their fees waived in 75 out of 82 cases. Meanwhile, the Competitive Enterprise Institute was rejected 14 out of 15 times. The Sierra Club had 11 out of their 15 requests approved. The NRDC had 19 out of 20 approved. Earth Justice was perfect, got all 19 requests approved. Employees for Environmental Responsibility went a perfect 17 for 17. Water Keeper Alliance had all three of its requests granted. Greenpeace and the Southern Environmental Law Center were two for two, and Center for Biological Diversity were four for four. We have just seen the scandal that has erupted over the IRS targeting the conservative groups for audits and things like that. What is your response to something that seems to be of a similar nature happening at EPA? As the Acting Administrator, will you investigate this, and if it needs to be corrected, promise to correct it?

Mr. PERCIASEPE. Thank you for that question, and yes, this came to my attention yesterday, I think, as it did to a number of folks. I had an opportunity to talk to the chairman very, very briefly yesterday about it, and I have not read yet personally the report that you are bringing up but I want to assure the committee that it is not EPA's policy in any way, shape or form to treat people differently when they request to be waived for fees, and we have six criteria that I looked at last night that the staff uses to make those determinations. I have also discovered since the last time we talked, Mr. Chairman, that we do about 500 of these a year. So what I have asked this morning is that our Inspector General help me do a programmatic audit of this. I don't know if these criteria are causing any problem or whether or not this kind of decision-making that is pointed out in this report is actually what is happening, so I need to get an unbiased opinion on this.

I should point out that even if the fees are not waived, it is frequent that fees are charged anyway because a certain amount of the work we do is free regardless, and with our new FOIA online system, there is no duplication fees because some of the fees used

to be in copying all the materials and now it is all electronic. So even if somebody's request is denied for whatever reason, the chance of them having to pay any fees are much lower today than it used to be. That said, I am going to look forward to doing an audit of this.

Mr. BARTON. Well, we can have disagreements on policy and we have disagreements over the implications, but to the people out in the public, if it is government information and you are going to give it free to one side, you ought to be able to also provide it free to the other and then let the policymakers and the public make the decision, and it certainly appears that there is a bias when if you are the Sierra Club it is almost a guarantee your fees will be waived, and if you are the Competitive Enterprise Institute, it is almost a guarantee your fees are not going to be waived.

Mr. PERCIASEPE. Well, as I said, I am going to get an independent look at all of that information so that I can make a determination, so I appreciate you bringing it up. I have been looking at this over the last 24 hours.

Mr. BARTON. Thank you, Mr. Chairman.

Mr. WHITFIELD. The gentleman's time is expired. At this time I will recognize the gentleman from California, Mr. Waxman, for 5 minutes.

Mr. WAXMAN. Thank you, Mr. Chairman. This hearing is supposed to focus on the President's fiscal year 2014 budget request for the EPA. However, first we need to understand the immediate impact of sequestration, what it will have on the Agency's ability to protect public health this year.

Earlier this year, EPA provided an assessment of the sequester's potential impacts across the Agency. I would like to explore how this is actually playing out, Mr. Perciasepe.

One expected effect was to slash funding for States to monitor local air quality and provide the public with essential air quality data. Administrator Perciasepe, are these reductions still expected to occur, and what will that mean for States and communities?

Mr. PERCIASEPE. All the, we call it the State-Tribal Assistance Grants budget program in the Agency, all of those were cut by 5 percent. There was no discretion on our part on that, so the purposes of those grants and the activities that they were going to conduct have that level of reduction including air quality monitoring programs.

Mr. WAXMAN. Will it make a difference? Should we be concerned about it? What will be the impact?

Mr. PERCIASEPE. Well, on the air quality specifically or on the grants in general?

Mr. WAXMAN. Well——

Mr. PERCIASEPE. Even the Sandy supplemental we were just talking about was reduced by 5 percent. The drinking water revolving fund will probably result in 40 fewer projects started during the year. The purchasing of air quality monitors under that section of the Clean Air Act will just be stretched out longer.

Mr. WAXMAN. So money for the States to monitor local air quality efforts will be reduced. They just won't know what is going on to the full extent that they are now able to, with the funds that

are going to be cut. Will the Agency still have to significantly reduce inspections and other compliance and enforcement activities?

Mr. PERCIASEPE. We have a combination of issues there because our travel budgets are cut but also we have to furlough employees. So when we furlough employees, obviously that translates into fewer hours available to do the inspections. Our estimate is probably around 1,000 fewer inspections, and we haven't translated it down to the fewer inspections the States will do if their grants will be reduced.

Mr. WAXMAN. Well, if there is not going to be a credible possibility of inspections and enforcement, compliance, I think, would break down. The companies that comply with the law are disadvantaged, creating more incentives to cheat. Is that a fair conclusion?

Mr. PERCIASEPE. I think it is fair to say that some compliance will go undetected.

Mr. WAXMAN. Another EPA initiative at risk are two of the joint EPA/NIH Centers of Excellence for Children's Health Research, which researched the role of environmental factors in some of the most pervasive and devastating childhood diseases including asthma, autism, childhood leukemia and diabetes. Will EPA be forced to stop funding two centers conducting research on these childhood diseases?

Mr. PERCIASEPE. I don't know the answer to that. I am sorry.

Mr. WAXMAN. Well, I would like you to get it for me because that is my understanding that it would happen. I am also concerned about the assistance EPA gives local communities for conducting cleanups and upgrading infrastructure. EPA projected no new Superfund cleanups, slowdowns in ongoing Superfund cleanups, fewer water quality protection and restoration projects, and hundreds of underground storage cleanup projects that will no longer happen. Administrator Perciasepe, will States still face these substantial cutbacks?

Mr. PERCIASEPE. We will have fewer brownfields projects, probably about 10 under a cooperative agreement that we have, five fewer cleanups. There will be 12 fewer Superfund removals. These just permeate through the whole thing.

Mr. WAXMAN. These cuts are irrational. They will going to hinder efforts to protect Americans from radiation after a terrorist attack or disaster. They are going to undermine our ability to protect our waters from oil spills. They will weaken efforts to protect our infrastructure against national disasters and nuclear accidents. These cuts are bad for public health and for the economic health of our communities and industries. They stop good investments for our communities that are labor-intensive, which means good jobs for construction workers and engineers. Some of the projected effects would hurt American businesses as well.

But the key point that I think what we must recognize is that next year's proposed budget cuts under sequestration would be another $325 million from EPA's current funding levels under the sequester. And of course, the Ryan budget would go further. In 2014, they would cut EPA funding by an estimated 14 percent from 2012 levels. This is unacceptable. EPA has critical responsibilities: protecting clean air, clean water, slowing devastating climate change.

Even if you want to protect your coal industry, it is not reason enough to cripple EPA.

Mr. WHITFIELD. The gentleman's time is expired. At this time I recognize the gentleman from Louisiana, Mr. Scalise, for 5 minutes.

Mr. SCALISE. I want to thank the chairman for hosting this hearing, and I thank Acting Administrator Perciasepe. I appreciate you coming here and answering my questions. I have got a number.

I want to start with a question about ozone standards. In 2010, the EPA had proposed a change to the existing ozone standard that had just been put in place in 2008, hadn't yet even been implemented. Ultimately, I think the standards were estimated to cost between $19 billion and $90 billion annually to our economy, and I think they were pulled back, but I know in my district, that would bring levels in many of the parishes I represent into nonattainment, which would add tremendous cost and burden onto a lot of families and businesses out there.

I want to ask you, first of all, when you come out with your proposals next year, do you intend to repropose the current standard or are you looking at doing something similar to what you all had floated out in 2010?

Mr. PERCIASEPE. Well, as you pointed out, we are in the process of implementing the current standard that was enacted in 2008. What is going on right now and is not completed yet is the science process that goes on in front of any proposed new standard, and I believe the schedule has that happening sometime early next year, I think as you have pointed out, or very close to the end of this year. But right now the Clean Air Science Advisory Council is in the process of reviewing science documents on that. So there is no particular proposal in front of the Administrator at this point.

Mr. SCALISE. Will you all be taking public comment on maintaining the current 2008 standard?

Mr. PERCIASEPE. Yes. Once that science process is over, they will probably identify a range and those will go out for public comment.

Mr. SCALISE. All right. I want to go back to that Competitive Enterprise Institute report that Congressman Barton was just talking about. This is the report. I have gotten a copy of the report to your staff. It came out earlier this week. It details some of the FOIA request information that you alluded to that clearly your office is aware of it because it involves lawsuits that have been going on for years but ultimately what they have done is compiled a list. They took many left-leaning, what many people would consider left-leaning groups, and they took what man would consider right-leaning groups that issue FOIA requests upon the EPA and have the ability to get those fees waived, and they found, and it is categorized in this report, that 92 percent of the time, this goes back to January of 2012 through now, 92 percent of the time the EPA waived those fees for left-leaning groups and 93 percent of the time you denied those same fee waivers to conservative-leaning groups. And so when we take this in the context of what just happened and what has just been exposed at the IRS where yesterday USA Today's headline was "Liberals get a pass," it seems like at the EPA the same thing is happening where liberals get a pass. And, you know, if it was just an isolated incident and maybe you can go back and

look at a couple of things, that might be one thing. But when you start seeing a culture of anti-conservative attitude by the Obama Administration, it raises very troubling questions. When you see some of these numbers and you look at not only the Competitive Enterprise Institute but also the American Tradition Institute were rejected more than 93 percent of the time, and then you go look at the Natural Resources Defense Council, the Sierra Club, the Public Employees for Environmental Responsibility, they were a perfect 17 for 17 at getting their fees waived by you all. And so after a pattern of this, it is not just a coincidence. And so what I want to know is, who makes the decisions at EPA to waive these fees?

Mr. PERCIASEPE. Those decisions are made in our FOIA office, which is a career program office in the Agency, and they have criteria that they use to make these decisions, and what I mentioned to Mr. Barton, and I will repeat again, it is not our policy to not apply these things——

Mr. SCALISE. I understand. Does the Assistant Administrator, Ms. McCarthy, have any involvement in these fee waivers?

Mr. PERCIASEPE. No.

Mr. SCALISE. Let me ask you this, because one other thing that they raised, and this is something that came from the American Tradition Institute, I think there is a separate lawsuit going on that involves instant messaging, and they are trying to get instant messaging in FOIAs, and it seems like only emails were turned over but not IMs, and I think you even issued a memo recently reminding your employees that it seems like maybe at EPA they have been using IMs to try to avoid using emails to try to hide that information from FOIAs. Number one, what are you doing about making sure that instant messages are also included in FOIA requests but also do you know of any history of destroying IMs, those instant messages, over at the EPA, and whether they are destroyed accidentally or in violation of disclosure laws?

Mr. PERCIASEPE. I can say that we just changed our computer system for email that has a better instant messaging preservation system in it. To my knowledge, instant messaging is not widely used at EPA, but we are putting in place, as I suggested in my memos to the staff and to others, that we are putting in place a backup preservation system so that they——

Mr. SCALISE. Do you know if any have been destroyed?

Mr. PERCIASEPE. Not that I know of.

Mr. SCALISE. Thanks. I yield back the balance of my time. Thank you, Mr. Chairman.

Mr. WHITFIELD. The gentleman's time is expired. At this time I recognize the gentleman from Michigan, Mr. Dingell, for 5 minutes.

Mr. DINGELL. Mr. Chairman, I thank you for your courtesy. I ask unanimous consent to provide my remarks in the record and to include certain correspondence between me and EPA, which will be occurring shortly.

Mr. Perciasepe, many of us in the Great Lakes have sent a letter to the Appropriations Committee requesting $300 million for the Great Lakes Restoration Initiative. The Administration has requested that level of funding as well. I have concerns that EPA is not doing enough to address the water quality in the Great Lakes. As you know, we had a massive algae growth in Lake Erie, which

was referred not long back as America's Dead Sea, and I have worked long and hard to clean this up but I note that in the response your office has given, you have referenced your resources to combat massive algae blooms such as the one on Lake Erie. I would like to hear, do you have enough resources to deal with that algae bloom and do you propose to do anything about it this year so that we don't have another repetition?

Mr. PERCIASEPE. I think it is a——

Mr. DINGELL. Yes or no.

Mr. PERCIASEPE. Yes, I have the funding for the EPA part of this.

Mr. DINGELL. I will ask you to submit for the record what you propose to do about that and whether you have adequate funds.

Now, I would appreciate it if you would submit for the record additional information on efforts EPA is taking to address this issue, and so if you could submit that for the record, it would be appreciated.

Mr. PERCIASEPE. Yes, sir.

Mr. DINGELL. I have the distinct feeling you do not have the resources to do the job.

Now, next question. I see that the President's fiscal year 2014 budget request for CERCLA or Superfund is $33 million less than for fiscal year 2012. Yes or no, can CERCLA continue to fulfill its duties and its current cleanup responsibilities and obligations without slowing down significantly because of this reduction in funding? Yes or no.

Mr. PERCIASEPE. Yes, for existing Superfund sites. Future ones, we are going to have to delay.

Mr. DINGELL. In other words, you do not have enough money to do the cleanup at the same rate or the necessary rate because of that cut. Is that right, or no?

Mr. PERCIASEPE. Yes.

Mr. DINGELL. Would you submit some additional information on that issue, please, so that we may evaluate that more adequately?

Now, this is an important issue, given the fact that tomorrow we are going to be having a hearing on amending CERCLA. I am concerned again about something different about which you have no say, and that is, the majority appears not to be allowing the minority to request certain witnesses. Given the complexity of the issues the draft legislation seeks to address, I hope the majority would hold fair and open hearings so that we can have a proper input and all the information that is needed.

Now, I would like to have you answer this question.

Mr. SHIMKUS. Would the gentleman yield on that point?

Mr. DINGELL. I will be happy to yield.

Mr. SHIMKUS. The fact of the matter is, we were asked by the ranking member on the floor—the hearing tomorrow has three Republican witnesses and two Democrat witnesses. Then we were asked for government witnesses, which you said we would have at an additional time. So I don't know what this frustration is but it is very disappointing because it is not the intent. In both government agencies, we are not going to testify on the pending legislation.

Mr. DINGELL. My question is, are we going to have enough time and enough witnesses to get the answers? These hearings are supposed to afford the minority adequate opportunity to be heard——

Mr. SHIMKUS. If the gentleman would yield?

Mr. DINGELL [continuing]. That is the case.

Mr. SHIMKUS. If the gentleman would yield, the answer is absolutely.

Mr. DINGELL. All right.

Mr. SHIMKUS. But I don't know what you all are crying about. That is my frustration.

Mr. DINGELL. Well, I only have 44 seconds left.

What is EPA doing to enforce the cost of cleanups and emergency cleanups? Please submit that for the record. And I want you to tell me what is EPA doing to hold the property owners responsible for the costs related to cleanups? We have one situation in my district where the mayors are continuously complaining about the fact that a property owner is doing nothing and that he is paying fines or is supposed to pay fines of about $37,000 per day for his refusal to carry forward. This individual has a long history of having failed to have done what it is he is supposed to do to comply with a wide array of laws. I will be sending you a letter, which I ask unanimous consent for to be inserted in the record together with the response about this particular individual and about what you are doing there, and I am hoping that you will give me an adequate and prompt response.

Mr. WHITFIELD. Without objection, and the gentleman's time is expired..

Mr. DINGELL. And I thank you. Just one more question, quick. Is EPA doing enough to adequately carry forward existing steps to the highest level of performance or are you having to cut back because of lack of personnel and money?

Mr. PERCIASEPE. For emergency cleanups, if I am correct in your question, we make sure that we have the adequate resources to deal with emergency responses.

Mr. DINGELL. Due to the fact that I am 53 seconds over, I am going to request that you submit that for the record.

Mr. Chairman, I thank you and my colleague for your courtesy. We do want to work with the majority. We want to see that we get the time, we want to see that we get the witnesses, and we want to see that we have a record that gives us the ability to look at things properly.

Mr. WHITFIELD. Mr. Perciasepe, did you understand the documents that he asked you to provide?

Mr. PERCIASEPE. Yes, I do, and we will follow up.

Mr. WHITFIELD. Thank you.

Mr. DINGELL. Mr. Chairman, I would like you and my other colleague to know that these questions are asked with great respect and great affection.

Mr. WHITFIELD. Mr. Tonko.

Mr. TONKO. Mr. Chairman, since this subject came up, and Chairman Shimkus raised the question, I believe for the record what we would like is a full discussion of the Superfund before the markup of the bills. So if we have other witnesses coming in which he has been kind enough to grant, we believe it would be helpful

to do the sequence and that the Committee has this additional hearing to which it is committed.

Mr. SHIMKUS. But if the gentleman would yield, we just marked up the track-and-trace on the FDA, and we didn't have a whole FDA authorization hearing. It is kind of an irresponsible request. This is a legislative hearing. We can have a hearing on the Superfund on its own. But to say you have to have a full hearing on a full agency before you move on a hearing on legislation, it is problematic.

Mr. TONKO. In those other areas, though, Chairman, I would suggest that you have had hearings. There has not been a Superfund hearing in some 10 years with many committee members being new to this committee since that time, and I think it would be very helpful to have that sort of understanding of how Superfund is working or not working before we amend it, and to do that before the markup of the bill.

Mr. WHITFIELD. Well, listen, I am sure you and Mr. Shimkus can work this out for your subcommittee. At this time I am recognizing the gentleman from Georgia, Dr. Gingrey, for 5 minutes.

Mr. GINGREY. Mr. Chairman, thank you for the recognition.

Mr. Perciasepe, I am going to ask you to get very close to the microphone, if you will. I am suffering from swimmer's ear this morning and I can hardly hear my own self talk. I don't know whether I am yelling or speaking softly. So bear with me. I would like to thank the Acting Administrator for testifying at today's joint hearing on the fiscal year 2014 budget. I will get right to my questions.

Mr. Perciasepe, in your capacity as Acting Administrator or as Deputy Administrator, have you ever solicited money from the stakeholders which your agency supervised? Yes or no.

Mr. PERCIASEPE. No.

Mr. GINGREY. Have you ever suggested, requested or otherwise asked stakeholders your agency supervised to donate money or otherwise assist in implementing a law for which your agency is responsible? Yes or no.

Mr. PERCIASEPE. No.

Mr. GINGREY. Have you ever suggested, requested or otherwise asked stakeholders your agency supervised to donate money to or otherwise assist outside groups that share your goals for implementing your agency's laws? Yes or no.

Mr. PERCIASEPE. No.

Mr. GINGREY. Well, I appreciate those responses and I am glad to hear that because as you may be aware no doubt, this past Friday the Washington Post reported that HHS Secretary, Health and Human Services, Kathleen Sebelius, has for the last 3 months been making phone calls to health industry executives asking that they contribute to nonprofit groups working to implement various aspects of the Affordable Care Act, otherwise known as Obamacare. In fact, the New York Times then reported on Sunday that Secretary Sebelius suggested that they support the work of Enroll America, a nonprofit organization that indeed is advocating for Obamacare.

Mr. Chairman, I am pleased by the Acting Administrator's answer that the EPA has not acted in this manner. However, in light

of the indiscretions, and my colleague from Louisiana, Mr. Scalise, touched on this, he stole my thunder but not my lightning, these indiscretions admitted this week across multiple agencies——

Mr. RUSH. Mr. Chairman.

Mr. GINGREY [continuing]. Re the Department of Justice or the Department of Treasury.

Mr. RUSH. Will the gentleman yield?

Mr. GINGREY. I am extremely concerned——

Mr. RUSH. Will the gentleman yield?

Mr. GINGREY. No, I will not. If I have time at the end, I will be glad to yield but I will not yield now. I am extremely concerned with conduct of this Executive Branch. It is abundantly clear that each agency has significant power over the very industries that they regulate. I expect these Subcommittees of Energy and Commerce, this one, will continue to utilize their oversight of this Administration to monitor agencies and ensure that the private sector has the ability to create jobs and bolster our economy without the threat of retribution, and that is what we are facing right now, and I will yield to any of my colleagues on this side at this point the rest of my time, or else I will yield back my time.

Mr. RUSH. Mr. Chairman.

Mr. GINGREY. Or I will yield 30 seconds to the gentleman from Chicago. I am sure he knows a lot about this.

Mr. RUSH. Mr. Chairman, I am sure my friend has outrage about a whole lot of matters but we can all have sense of outrage about a lot of matters, but why waste the time of this subcommittee on such far-reaching and inappropriate feigned outrage because you want to attack the Obama Administration? This has been an orderly hearing. It has been a hearing conducted with some decency, and out of the blue come these outrageous, ill-timed and ill-conceived remarks. Mr. Chairman, let us keep our committee—the Energy and Power Subcommittee, has a record, has a way of keeping proper demeanor between individuals.

Mr. GINGREY. Reclaiming my time. Mr. Chairman, reclaiming my time, I now yield back. Thank you, Mr. Chairman.

Mr. RUSH. I think he owes us an apology.

Mr. WHITFIELD. Mr. Rush, let me just say——

Mr. RUSH. He is wasting our time.

Mr. WHITFIELD. I would just say that the gentleman from Georgia actually complimented the EPA for not involving themselves in those kinds of activities.

Mr. RUSH. Mr. Chairman, we have been abused in this hearing by the gentleman from Georgia—abused.

Mr. WHITFIELD. At this time I would recognize the gentlelady from California, Ms. Capps, for 5 minutes.

Mrs. CAPPS. I thank the chairman for recognizing me, and I thank you, Mr. Perciasepe, for your testimony.

I appreciate EPA's acknowledgement of the strong link between our energy sources and usage, climate change and clean air and water. As a representative of a coastal district, I am particularly mindful of these impacts on our oceans. As you well know, we rely upon healthy oceans for countless economic activities like fishing, tourism and recreation. One of the most troubling impacts of climate change is ocean acidification, which threatens countless orga-

nisms, ecosystems and livelihoods. Ocean acidification is caused by the increased uptake of carbon dioxide from the air and nutrient runoff from land. Managing coastal runoff is clearly within EPA's jurisdiction so I would hope that EPA has a plan for managing this contributor to ocean acidification.

My specific question, Mr. Perciasepe, is, is EPA doing anything to monitor nutrient runoff? If so, what are you doing to reduce this runoff and its impacts on the ocean?

Mr. PERCIASEPE. Thank you for the question. I mentioned in my opening comments, and I want to emphasize this more with your question, that nutrient pollution, whether it be Lake Erie or in the Great Lakes or Lake Tahoe or the ocean near coastal waters is a major issue in the United States. We have asked in this budget for some additional funds to help States put together more concrete plans on some of those impaired waters, and we have been working with the States to identify all the places in the country where there is impairment.

I want to add one thing very quickly. We have also been working very hard with our partners in the Department of Agriculture because they also have concerns about this because obviously they want to maintain nutrients on the land so that they can help grow the crops. So we have a good working relationship there and we are hoping to provide some more funding to States here through this budget.

Mrs. CAPPS. And I appreciate that, and we will look forward to working with you to make sure this happens.

Another topic: One of the deeper program cuts in the EPA is to the National Estuary Program, which was reduced by nearly 15 percent, and this is compared to the 5.2 percent reduction to the Agency as a whole. Our national estuaries, and you know that I have one in my district, are such an important resource for coastal communities through ecosystem preservation and also providing local jobs. Despite these programs' ability to leverage minimal EPA funding—and they partner with such a variety of private sources and nonprofit sources, so they are really are good at leveraging—these estuary programs are relatively small and they can't weather cuts as well as some of the larger programs. For example, Morro Bay National Estuary Program in my district raises about $2.50 for every dollar it receives from EPA. This program helps our cities, the county, State agencies, local nonprofits and landowners further the conservation goals in our local communities. But this proposed cut is going to force Morro Bay to eliminate a position in that estuary to pull back on promised services to our community.

So Mr. Perciasepe, I understand EPA's very tough budget challenges, but what is the rationale for making such a substantial cut to the National Estuary Program and how does this align with EPA's overall mission? I know it is a tough question. You didn't ask for this budget, but we are trying to understand it.

Mr. PERCIASEPE. You know, the National Estuary Program is something I personally worked on for many, many years. Being from Baltimore for the middle part of my life, obviously the Chesapeake Bay is a pretty important amount. Now, what you are talking about is the difficult choices we had to make in implementing the sequestration in 2013. I want you to know that the budget be-

fore you for 2014 restores the funding for the estuary program at the basic level that we think it needs to have, and I hope again that the committee will in its advice and coordination with the Appropriations Committee support that.

Mrs. CAPPS. Thank you. I look forward to getting that information.

I did have one other question which won't fit into the last 18 seconds because it is such a big topic. Our country's water infrastructure is in such need of repair and upgrades, so I would like to, Mr. Chairman, submit this question to Mr. Perciasepe in written form and ask that both the committee and myself personally receive a written answer in response because I think we are at a crisis level in many of our water districts in the country. I know we certainly are in the central coast of California. And so again, thank you for continuing this back and forth.

Mr. WHITFIELD. Well, they will certainly be submitted. As you know, when the hearing is over, we will be gathering material for additional questions and getting it to the Administrator. At this time I recognize the gentleman from Texas, Mr. Hall, for 5 minutes.

Mr. HALL. Thank you, Mr. Chairman. I would first thank the witness for your statement: "If you invite me, I will come." And you stand by that, do you? You are not going to change your mind on that?

Mr. PERCIASEPE. No. I mean, that is to play baseball. Chairman Shimkus said I didn't show up for practice last night, and I said if you invite me, I will come to the next practice.

Mr. HALL. Your folks, Gina McCarthy and Lisa Jackson, fouled out on all the letters I have written to them requesting them to come here, and Mrs. Jackson refused to come here until we threaten subpoena. Finally, she agreed to a time under her conditions, she thought. I sure hate to see you follow something like that. You are so important to us.

Mr. Dingell helped write a bill for clean air and clean water back, I don't know, some time in the 1980s, early 1990s. Were you with the EPA at that time?

Mr. PERCIASEPE. I was not at the EPA in 1990. I was working for Governor Schaefer in Maryland in 1990.

Mr. HALL. Well, we at that time set some provisions for EPA to have some control over—I am from Texas and I know the oil and gas business and I know they need some control and need some supervision, some oversight. We set them up to give them that oversight and also, though, we expected them to give them some support, and that has been their practice up until this Administration came into being. And one time with Gina McCarthy, I asked her, did you consider the impact your resolutions have on our jobs, and her answer, and it is in the record here, and they are being made aware of that over there as she seeks to be confirmed, that her answer was "I am not in the business of creating jobs." And I told her I thought that was one of the meanest answers I had ever had here with the problem people are having not having jobs and having to tell their families they can't provide, and I left her a place to apologize. She has never done that. So I am going to really expect you to come when we invite you because we want you to.

As you know, EPA recently designated Wise County, Texas, a county with significant gas production and transmission as an Ozone Nonattainment Area. You are aware of that, aren't you? Just yes or no, if you know?

Mr. PERCIASEPE. Yes.

Mr. HALL. And this action was initiated by your former colleague, Mr. Al Armendariz. You remember that name, don't you?

Mr. PERCIASEPE. Yes, he was a former regional administrator.

Mr. HALL. And he likened EPA's regulatory enforcement philosophy toward the oil and gas industry to Roman crucifixion. Do you remember that statement by him? Just yes or no. You may not. If you don't, tell me no.

Mr. PERCIASEPE. Yes, I remember its reporting.

Mr. HALL. Well, I am going to do better than report it. His predictions came true in this designation given his recommendation was totally inconsistent with methods applied by other EPA regions and was not based on any sound science. So I guess my first question is, why did EPA headquarters rubber-stamp his recommendation, which was inconsistent with other EPA regions and not based on a sound scientific record?

Mr. PERCIASEPE. This is on Wise County?

Mr. HALL. Yes.

Mr. PERCIASEPE. Well, the factors that EPA looks into when it tries to define the area that is contributing to the nonattainment is the sources of pollution in those areas, the connectivity in the metropolitan area in terms of people commuting or jobs that may be in the different locations and how people move around and what the emission sources are, and so I think that that decision was based on those kinds of data.

Mr. HALL. OK. I will accept that.

Mr. PERCIASEPE. So I would——

Mr. HALL. I want to also say and just read you some of what his statement was. He said, "But as I said, oil and gas is an enforcement priority. It is one of seven, so we are going to spend a fair amount of time looking at oil and gas production, and I was in a meeting once and gave an analogy to my staff about my philosophy of enforcement, and I think it was probably a little crude and maybe not appropriate. It was kind of like how the Romans used to conquer little villages in the Mediterranean. They would go into a little Turkish town somewhere. They would find the first five guys and they would crucify them, and then you know that that town was really easy to manage for the next few years." That was his statement. So as you make examples of people who are in this case not complying with the law, fine people who are not in compliance with the law and you hit them as hard as you can. May I have permission to have this inserted into the record, Mr. Chairman?

Mr. WHITFIELD. Without objection.

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

Mr. HALL. And I would just like for you to explain, given the evidence that we have seen of his indisputable bias against the fossil fuel industry including this transcript that is going to be in the record, and it is in the Senate record also of his comments about wanting to crucify oil and gas companies, which I have offered for the record, so I guess my question to you is whether or not you will

commit to me to reexamine the decision and ensure that EPA applies a standard and methodology consistent with all EPA regions.

Mr. PERCIASEPE. Of course I can commit to that. That statement and the policy that it might be implicated with is not the policy of EPA. EPA's policy is the fair application of the law.

Mr. HALL. Well, it hasn't been. It hadn't been based on science, and we have proven that many times. I yield my time. I hear the gavel.

Mr. WHITFIELD. The gentleman's time is expired. At this time I will recognize the gentleman from California, Mr. McNerney, for 5 minutes.

Mr. MCNERNEY. I thank the chairman for holding this hearing and I thank the Acting Administrator for coming. I am going to explore a local issue, if you don't mind too much.

The State Revolving Fund programs provided more than $5 billion nationally each year for water quality projects such as wastewater treatment, nonpoint source pollution control, watershed and estuary management. These programs' missions address many of the issues that face California's current water systems. Meanwhile, the controversial Bay Delta Conservation Plan, a minimum $15 billion project, continues to receive resources from federal government despite serious doubts about its environmental attributes and benefits. Do you believe it is prudent for the State of California and federal agencies to commit scarce resources to the BDCP before the State even uses the $455 million that has already been allocated and unused through the State Revolving Fund?

Mr. PERCIASEPE. There are many needs, and our general objective is to make sure that we work with the States to get those funds into use and so that is what we are doing across the country.

Mr. MCNERNEY. OK. Well, I just want to submit that that is a dubious plan and it is receiving federal resources despite the fact that the State has already got a large chunk of money that is unused.

The EPA along with other agencies will analyze proposed actions related to the Bay Delta Conservation Plan, but as currently drafted, the BDCP will consist of two large tunnels capable of diverting the entire Sacramento River around the Sacramento Delta. As currently drafted, do you believe that that's a permittable plan?

Mr. PERCIASEPE. I think we are in the process of reviewing that plan at this time, so it is an interagency process among, you know, Department of Interior. EPA has a small but not insignificant role in the review of that plan, which is being led mostly by the Department of Interior. So I can't—I don't have the evaluation yet of what the federal government thinks about that overall plan.

Mr. MCNERNEY. Well, again, I submit, that plan as currently drafted has serious environmental impacts in the entire delta including endangered species implications, so I submit that you look at that very carefully.

Mr. PERCIASEPE. I will, and I worked on the Bay Delta Plan in the 1990s as an EPA employee back in the 1990s in the Clinton Administration, so I am personally generally familiar with the issue but I have not yet been participating in the review of that plan.

Mr. MCNERNEY. OK. Thank you. The NEPA would require that an agency must prepare a detailed environmental review discussing, among other issues, alternatives to the proposed actions. Do you believe that additional viable alternatives to the BDCP should be reviewed in this process?

Mr. PERCIASEPE. Generally, that is what NEPA requires, as I think the State environmental review law in California as well, but again, I do know because of my past history almost 20 years ago now on this whole Bay Delta project that many, many alternatives have been looked at through the years. So I don't know what the status of all those are now but I will look into it.

Mr. MCNERNEY. Thank you. There is significant political pressure to move forward with one plan without considering the alternatives. So again, I submit that you look at that carefully.

The EPA is required to review and publicly comment on environmental impacts of proposed federal projects. The EPA is also the official recipient of all Environmental Impact Statements prepared by federal agencies. How will the EPA's fiscal year 2014 budget request for the BDCP be used to continue to develop Environmental Impact Statements and environmental impact reviews?

Mr. PERCIASEPE. I believe that division in our agency is adequately funded in the 2014 budget to carry out its duty of reviewing the Environmental Impact Statements that we receive. We don't allocate it for every project. It is just a unit in the agency.

Mr. MCNERNEY. Well, what I was trying to get at was, how much money is being allocated or used for those processes and other processes related to the BDCP? So if you could submit that?

Mr. PERCIASEPE. Yes, we will.

Mr. MCNERNEY. Thank you. I yield back.

Mr. WHITFIELD. At this time I recognize the gentleman from Pennsylvania, Mr. Murphy, for 5 minutes.

Mr. MURPHY. Welcome here. There are questions I wanted to address here. First of all, I noticed in your opening statement here in the second paragraph, you said the President's fiscal year budget demonstrates that we can make critical investments to strengthen the middle class, create jobs and grow the economy while continuing to cut the deficit in a balanced way. In the past, the Administrator of the EPA when before us has said they did not take into account the impact on jobs of environmental policies, and I just wonder if your statement is a reflection of a change in policies and that is that creating jobs is important and you will be taking into account job impact of EPA policies. Is that true?

Mr. PERCIASEPE. I think it would be within anyone's commonsense mind that job creation is an important priority, and while that is not the provisions in some of the environmental laws that we are given by Congress, it is certainly something we look at in our economic analysis of our rules.

Mr. MURPHY. I would hope so, because I know I represent a lot of coalminers, I represent a lot of people that deal with natural gas, nuclear, and when we are looking at hundreds of thousands of people in the coal-related industries losing their jobs, I oftentimes think one of the greatest threats to the environment is poverty because when you have no money, it is hard to care about other things. So I appreciate that.

I also want to know, with regard to sue and settle, are you familiar with what the concept of sue and settle is and the accusations that the EPA may meet with or communicate in any way with outside groups the results on a lawsuit with environmental groups who are suing the EPA or the U.S. government and then the EPA continues to meet or communicate in any way whatsoever to come up with some sort of a settlement as another way of having a regulation go through. Has the EPA ever engaged in sue-and-settle practices, sometimes referred to as friendly lawsuits, with environmental groups, to your knowledge?

Mr. PERCIASEPE. Well, the way you described it, I would say no, but we get sued and we do settle them. So——

Mr. MURPHY. But are there discussions then between the EPA and these groups? Many times these groups will move to bypass the legislative process and will sue and then the EPA works with them to come up with a regulation, and does that happen?

Mr. PERCIASEPE. Well, when we are sued, about 70 percent, maybe a little over 70 percent of the lawsuits that come against the EPA are on mandatory duties that we have under the laws that Congress enacted, and we didn't make the deadline or there is a periodic review that we didn't do, and so those settlement discussions are often about what the schedule should be, because we didn't meet the schedule that Congress——

Mr. MURPHY. And a lot of those are by environmental groups. Am I correct?

Mr. PERCIASEPE. Some are environmental groups, and some are by business groups, but they are not on matters of law, they are on matters of schedule.

Mr. MURPHY. Well, sometimes they are also pushing for some issues too such as enforcement activities there along those lines, and I know that, you know, certainly environmental groups have a right to stand up for the things that they believe in. That is fine. It has been brought up before about concern about these groups having some favored practice with the EPA with regard to having fees waived. I think a number of us are concerned about what may be a culture of conspiracy and abuse of power and abuse of the public trust when it favors any group over any other groups. And certainly I think it violates a fundamental pillar of our Nation with regard to fairness and freedom and democracy, that no one should be above the law, whether it is the IRS targeting some groups, pro-Israel groups, conservative groups or difficulty this committee has with getting information on Solyndra or other committees have with Fast and Furious and Benghazi, etc. I got to tell you oftentimes it has left this committee it is difficult if not impossible to trust agencies that have some ties with some other political motivation to nurture some and silence others.

Now, I want to know if it will be a change in the practice of the EPA to either give everybody waived fees with FOIA or everybody will have to pay. I don't know another way around it. When you are talking about 90 plus percent in one direction and 90 percent in another, it is hard to deny that there is some other motivation there. And so I wonder if this is going to be a change in some policy of the EPA that we can look to to say that they are going to treat everybody with the same fairness.

Mr. PERCIASEPE. Well, our policy is to treat everybody the same on that, on everything we do.

Mr. MURPHY. Well, along those lines too, I hope you will submit for the record too, let us know how much the value of those waived fees are, because obviously if that's not needed by the EPA, that might be an area we can make some changes.

Mr. PERCIASEPE. I absolutely would, and as I mentioned earlier in a response to a question on this matter, even when fees are not waived under the process that is currently there, it is frequent that there are no fees involved anyway because of the nature of the way we do it these days electronically, but we will provide that information to you.

Mr. WHITFIELD. The gentleman's time is expired. At this time I recognize the gentlelady from Florida, Ms. Castor, for 5 minutes.

Ms. CASTOR. Thank you, Mr. Chairman, and good morning. Thank you for being here to review the EPA budget.

I represent the Tampa Bay area in Florida, and my local communities truly value the partnership that they have with the U.S. Environmental Protection Agency, whether it is the brownfields initiative where the city of Tampa just won a substantial grant to help put some contaminated property back into productive use for some business owners there or it is the legal refit initiative that the city of St. Petersburg won a grant for that is going to help clean the air and help them change over their fleet, or whether it is the Clean Water Revolving Loan Program or Drinking Water Revolving Loan Program that are substantially underfunded, and are underfunded in this budget again and then are suffering another reduction. These are—when we are talking about job creation, these are important and very modest investments that help our communities create jobs, whether it is the brownfields or the business owner that has an opportunity to expand a business because that property is no longer contaminated or the engineering firm or construction firm that is hired to fix the old pipes that we have miles and miles of these old leaky pipes throughout our community. We have to recognize the leverage we get through those important but very modest investments create a lot of jobs. So we value that partnership, and I wish that the United States Congress would end the sequester, replace the sequester so that we can continue to make those job-creating investments.

But I wanted you to focus today on a great success by the EPA, and that is fuel economy standards, and all you have to do is get in your car and see the types of cars that Americans are purchasing right now, and one personal story. I am a member of a family who leased one of those new hybrid plug-in electric vehicles in October of last year. It came from a dealer with a full tank of gas, and since that time he has never been to the gas station and is averaging about 500 miles per gallon, has never been to the gas station since the car was leased in October. It is remarkable. It is kind of a revolution what is going on in that field, but just in fuel economy, if you look at what is happening with the ability to put money back into the pockets of American consumers because the Obama Administration and a couple Congresses ago pushed and said the technology exists. Could you quantify what has happened with fuel economy, summarize what kind of savings consumers

have realized over the past few years, the money back in their pockets, the clean air benefits and then the recent announcement to go even further?

Mr. PERCIASEPE. Yes. I thank you for those comments, and I think, as you have already pointed out, to put a little bit of measure into it, you know, obviously for the fuel economy and greenhouse gas standard combined, a program that we have put in place to provide level playing field for all the automobile manufacturers and coordinate with DOT and the State of California to make sure that it is all the same and working together, that is going to double the average fuel economy for American automobiles by 2025, and every year the fleet fuel economy is going to continue to improve and the amount of pollution from it is going to continue to go down, so you are going to have significant public health benefits and you are going to obviously have savings at the pump, and we would expect over the life of that program compared to the way vehicles are today that we are probably talking about over $1 trillion of savings over time.

Now, that translates not into more money into the economy. That would also, you know, as people purchase things or whatever, create jobs, but it also improves our national security because we are reducing every year our dependence on imported oil. We are not there yet and we have production growth as well in the country of our natural resources. So when you look at all these things together holistically, we really are improving our overall profile. I could probably tell you the public health benefits because somebody just gave me the piece of information here, but for nitrogen oxide, it is 6.9 million tons VOCs, 592 million tons. The net benefits that we have calculated on the public health side is about 174 billion. So I appreciate your question.

Ms. CASTOR. Thank you.

Mr. WHITFIELD. The gentlelady's time is expired. At this time I will recognize the gentleman from Texas, Dr. Burgess, for 5 minutes.

Mr. BURGESS. Good morning, and thank you for being with us this morning. Thank you for your forbearance in this lengthy interview process, but it is important, and I think you would agree with that.

Mr. PERCIASEPE. Absolutely.

Mr. BURGESS. I too drive a hybrid. I have had it for 10 years' time. Back when I bought my hybrid, the price of gasoline was actually a lot less so I can't really say I bought it because I am cheap, which I am, but I really bought it because then I could have that sense of moral superiority that a hybrid affords you, and I still enjoy that today.

Let us talk a little bit about some of the things that have come up during this hearing. First off, what is the mission of the EPA?

Mr. PERCIASEPE. I am sorry. Say that again.

Mr. BURGESS. What is the mission of the EPA? What is your core function?

Mr. PERCIASEPE. Well, our mission obviously is to protect public health and the environment.

Mr. BURGESS. Stop there. That is good. That is a sound bite. I will accept that.

Mr. PERCIASEPE. But if you go to the next level, it is essentially to implement the laws that Congress has enacted for EPA to be the——

Mr. BURGESS. And will accept that as secondary. Now, we have heard a lot of discussion here this morning about the sequester and the effects of the sequester, how it should be undone, but, you know, I will just simply ask you, you are the boss of the EPA, right? You are the head honcho of the EPA?

Mr. PERCIASEPE. The current acting head honcho.

Mr. BURGESS. Right. It is head honcho. We keep it simple here for this committee. And your boss is?

Mr. PERCIASEPE. President Obama.

Mr. BURGESS. Correct. And President Obama in August of 2011 signed a very famous law now called the Budget Control Act, did he not?

Mr. PERCIASEPE. I am certain he did.

Mr. BURGESS. And incorporated in that Budget Control Act was a condition known as the sequester. Is that correct?

Mr. PERCIASEPE. Yes.

Mr. BURGESS. It was something that was asked for by the Administration, asked for by Jack Lew who at the time was chief of staff or head of Office of Management and the Budget. They asked Congress to pass this law. The Congress accommodated. Now, to his credit, the President has not had to come back to the Congress with another debt limit discussion since August of 2011 so you could certainly argue he achieved his goal of wanting to get past Election Day and then some so that worked. Now, why is it that you as his agent at the Environmental Protection Agency cannot perform your core mission under the guidance of your President who said there will be a reduction in funding for the EPA under the sequester. Why is it you are having trouble doing that?

Mr. PERCIASEPE. Well, I am reporting to this committee the impacts of doing that.

Mr. BURGESS. Well, let me just ask you this. Why is it that it is only in federal agencies, and we certainly saw this, not your area but the Department of Transportation with the FAA flap a few weeks ago, when you got to do budget cuts, they immediately have to hurt people. I was in private business for a number of years. There were plenty of times where I fell on lean times and I had to look at my budget, and I had to squeeze 7 cents out of every dollar that I spent. Otherwise I wasn't going to be able to provide my core mission. And we did it, but I didn't lay off my scheduler. I did it in a way that allowed the business to continue to function and continue to take care of those patients who came into my medical practice. Why is it when in the private sector when times get tough and you have got to make budget cuts we try to do those in a way that minimizes the impact on our clients, patients or customers, and yet in federal agencies, let us extract the maximum amount of pain. Why is that?

Mr. PERCIASEPE. Well, I can't ascribe to that particular point of view. But I am giving you the information as best I can of what those across-the-board kinds of reductions have done in our agency. The flexibility that you just suggested that you have in private in-

dustry is not afforded to me as the head of the Agency because I have to make the cuts in every program. And within that——

Mr. BURGESS. You have some discretionary authority, I would submit and look, you know, you have got some stuff listed here of things that—and I realize it wasn't your helm at the time but in 2012 Lisa Jackson goes to the United Nations Conference on Sustainable Development, referred to as Rio Plus 20, Agenda 21, whatever you want to call it. How much did we spend to do that? How much did we spend to send Lisa Jackson to Rio Plus 20?

Mr. PERCIASEPE. I don't know the answer to that.

Mr. BURGESS. Can you find that out and get that information back to me?

Mr. PERCIASEPE. Certainly.

Mr. BURGESS. It seems to me that would be a far better place to cut rather than when Henry Waxman goes through you are cutting radiation safety and air quality, this would be a better place to cut, and if I were to advise you on how to look at your budget and make it work and comply with your core mission, these are the types of activities I would ask you to look at, and I cannot believe your boss, the President, did not do that, and I think that is a failing on the part of the Administration because they did ask for the sequester. Remember, that was the baseline.

Mr. PERCIASEPE. I mean, I can attest to the fact that he signed the bill but I was not involved with any of the negotiations.

Mr. BURGESS. And I appreciate that you weren't.

Mr. PERCIASEPE. But——

Mr. BURGESS. But you are now to do the job, correct?

Mr. PERCIASEPE. Yes, I am, and I just want you to know that I did cut the Agency's travel budget in half.

Mr. BURGESS. Good for you. Eliminate it. Thank you, Mr. Chairman. I will yield back.

Mr. WHITFIELD. At this time I recognize the gentleman from Virginia, Mr. Griffith, for 5 minutes.

Mr. GRIFFITH. Thank you, Mr. Chairman. I appreciate that.

Let me tell you that I was going to ask about the discrepancies on the FOIA matter but I believe that has been covered. However, I had originally intended to drop that question but I don't want you or anybody else to believe that I think it is a waste of time ever to try to reassure this committee and the American people that we are trying to have a just system, and the appearances, as previous folks have said, the appearances are that when it comes to waiving the fees that it has not been just, that somebody is placing their finger on the scales of justice. I believe that what you have laid out talking to the Inspector General and all makes sense, but I don't want anybody thinking that we think it is a waste of time to try to assure the American people that we are setting up a just system.

Mr. PERCIASEPE. I don't believe that for a minute.

Mr. GRIFFITH. And I appreciate that.

Mr. PERCIASEPE. It is one of my most important responsibilities as a public servant.

Mr. GRIFFITH. And as a part of trying to make sure we have a just system, there have been concerns with the sue-and-settle process that the EPA frequently agrees to, what we believe to be unrealistic deadlines for issuing major rules that are going to impose

massive new costs on businesses and consumers. The schedules the EPA agrees to may not allow the EPA enough time to collect the data the Agency needs or enough time for the public to review the rule and offer meaningful comment. Can you commit that going forward the EPA will consult with affected stakeholders before committing to those deadlines?

Mr. PERCIASEPE. One of the things that I am committed to doing is when there is a request for a—when we have a petition or request to do a rulemaking on whatever schedule to post that request on the Web so that all the stakeholders can see it, and then whatever process that is required under the Administrative Procedures Act, et cetera, which is also——

Mr. GRIFFITH. Well, I would encourage you to go a little bit further than just posting, although that certainly would be helpful, because I believe that as we go forward being more transparent and involving all the affected stakeholders in the process will help ensure that the EPA does not commit to unrealistic deadlines.

In the case of the Clean Air Act, consent decrees before they are entered by the court, there is a statutory opportunity for the public to comment. Does the EPA publish copies of the actual rulemaking settlements and proposed consent decrees in the Federal Register?

Mr. PERCIASEPE. All the consent decrees under the Clean Air Act for sure have to be published in the Federal Register.

Mr. GRIFFITH. But is that done? When you are discussing this, there is supposed to be an opportunity for the public to comment before they are entered by the court. Do you put it into the public register before the court enters a decree?

Mr. PERCIASEPE. Right. It goes out for public comment, and then when the public comment period is over, the comments are reviewed and then that is when it gets entered into the court.

Mr. GRIFFITH. All right. Does this opportunity for public comment ever result in changes to a settlement? Because we are only aware of one instance where involving technology and residual risk reviews for various source agents where that occurred.

Mr. PERCIASEPE. I don't have that information.

Mr. GRIFFITH. Can you get that information?

Mr. PERCIASEPE. I can certainly get that for you. I do know that we also get—once we complete some rulemaking, we often get requests for reconsideration of those rules as well, and which we have done on many occasions.

Mr. GRIFFITH. And I appreciate that. Sorry, my time is short. I have got to keep moving.

Mr. PERCIASEPE. Yes, sir.

Mr. GRIFFITH. There are some in the Agency in the past related to Utility MACT and other regulations that have indicated that coal-fired power plants are not being retired because of regulations but because of the low cost of natural gas. Of course, natural gas costs are going back up. But while some have made that argument, and we have retired 41,000 megawatts of coal-fired generation, there is a Duke University Nicholas School of the Environment report that has concluded that the cost of complying with tougher EPA air quality standards could spur an increased shift away from coal and toward natural gas for electric generation. Also, an April 23 of this year analysis, the Energy Information Administration ex-

plained that the interaction of fuel prices and environmental rules is a key factor in coal plant retirements. How do you make the two of those fit? And I would submit that what you have got is that the regulations are in fact retiring these plants, and like Mr. Rush said earlier, he is concerned about what happens to poor folks. In my district, they are having a hard time paying their electric bills and their food and their drugs, particularly for my elderly who are trying to survive on a fixed income, and I am just wondering if the EPA takes any of that into consideration when they are trying to make these decisions, because when I raised this last year with your predecessor, she said—or I guess it was a year and a half ago—she said "We have programs to take care of that," but in the budget, not your budget but in another part of the budget, the President actually cut the LIHEAP program, which would have helped folks with their heating bills and their electric bills. How do you justify or make all that work together?

Mr. PERCIASEPE. Well, first of all, we do analyze what we think the impact of the regulations will be on potential closures, and you are correct that it is a complex mix of what the age of a plant is, what it would cost to continue to keep it running and fix it up versus modernizing with another kind of plant. Our estimates continue to show that a very small amount but not a zero amount of the changing that is going on in the industry, which has been going on for 10 years, is not due to the regulations but the regulations no doubt have a role to play there, and we have analyzed that and we have been public about it.

I know that this has come up several times, and, you know, I went ahead and looked a couple of weeks ago at what the projections are, even under the current situation that you are bringing up here, that EIA and others have put out there, what coal production and coal usage for electric generation will be in the future, and it is still fairly robust. I mean, there is no expectation on our part nor desire on our part to have coal not be part of the diversity of fuels that are available for electric generation in the United States, and all of our projections including EIA's show that it will continue to play a role.

Mr. WHITFIELD. The gentleman's time is expired. At this time I recognize the gentleman from Ohio, Mr. Johnson, for 5 minutes.

Mr. JOHNSON. Thank you, Mr. Chairman. Mr. Perciasepe, baseball practice is at 6:30 in the morning. If you want to know where it is at, I play, so I can give you directions.

Mr. PERCIASEPE. I think Mr. Hall was saying if I am invited to the committee, and I was going back to the other one.

Mr. JOHNSON. Oh, oK.

Mr. PERCIASEPE. I will of course come if the committee invites me.

Mr. JOHNSON. OK. Great. As the former Assistant Administrator for Air, you are well aware that under the Clean Air Act, the agency historically has always subcategorized fuel types, not just between coal and natural gas but sub-coal types such as subbituminous or lignite. Why did the Agency break with that tradition on the NSPS for greenhouse gases and set one standard, a natural gas standard?

Mr. PERCIASEPE. Well, I think when the proposal was made, there was some careful consideration that there would be technology available that would enable everybody to meet the same performance standard. Because there is some question about the technology, that proposal actually recommended a 30-year averaging period so that, you know, you would allow the technology to catch up. So we felt like there was an ample opportunity for a diversity of fuels there regardless of the single performance standard. That said, we have received, as I think you know, significant comment on this issue and it is certainly something that we are trying to analyze ourselves right now as to what the final rule will look like.

Mr. JOHNSON. So will the new NSPS rule that comes out of the EPA have not only subcategories for fuel types for coal and natural gas but also back to those sub types for different types of coal?

Mr. PERCIASEPE. Well, we are looking at the comment that we got on that. I can't say what the final one is going to be yet because we are still in that process.

Mr. JOHNSON. I would certainly urge you to consider that because it leads me to my second line of questioning here dealing with cost and benefits. As regulations become more complex and expansive, would you agree that impacts may affect more than just the directly regulated sector due to price effects and other costs that ripple through the economy? Would you agree that taking fuller measures and estimates of energy price effects and other costs up front would be important for fuller understanding of regulatory impacts economy-wide?

Mr. PERCIASEPE. I think that this issue is a pretty important issue and it is one that we have been working on what kind of analytical tools can we get that would really enable us to do that. You just heard me answer the member from California about the—no, Florida, I am sorry—about the fact that the fuel economy/greenhouse gas rules for the cars are going to cut the amount of gasoline in half and that translates into less money spent, and then that money obviously will have another potential benefit in the economy.

Mr. JOHNSON. But you are talking about benefits.

Mr. PERCIASEPE. Right.

Mr. JOHNSON. What about the cost implications to the industries?

Mr. PERCIASEPE. Right. We have to look at both of those when we do this, so we are committed to continuing to move in that direction and I have actually had some conversations with the Senate committees about convening some panels to——

Mr. JOHNSON. Well, our committee has heard testimony that for its major air rules, the EPA has failed at least during this Administration to look at the economy-wide impacts. We understand that economic modeling can more fully account for the economy-wide impacts of regulations by measuring the ripple effects of prices through other sectors of the economy not directly affected by the regulations. This provides a fuller picture of job shifts and other economic impacts. We understand that since 1997, the EPA has conducted economy-wide modeling of regulatory impacts just two

major air rules both in 2005. Can you explain why the EPA has not performed such modeling during this Administration?

Mr. PERCIASEPE. The models that exist are not adequate to do what you are suggesting. There were attempts to do it and——

Mr. JOHNSON. What are you doing to update the modeling?

Mr. PERCIASEPE. I was trying to answer you, that I have suggested to your Senate counterparts that we convene a panel of economists and look for advice from them on what kind of models we can use to do this kind of impact across that looks at both the benefits and the costs, because if you are going to look at the whole economy, you have got to look at both sides of that equation.

Mr. JOHNSON. Can I then take that going forward? It sounds like you are making a commitment that the EPA will undertake in the coming fiscal year to look at the economy-wide impacts of its major rules using state-of-the-art economic modeling. Is that what I am hearing?

Mr. PERCIASEPE. What you heard me commit to do is to try to find out if there are models that we can actually do that with, so——

Mr. JOHNSON. I mean, this is 2013. We have got a lot of smart people, particularly in the EPA. Surely you can find a modeling methodology. We are pretty good at this kind of stuff. Am I hearing that you are making a commitment to address the modeling?

Mr. PERCIASEPE. We are going to convene an expert panel of economists to give us some advice on that. We have done some of it. We have done it on our 812 cumulative impact analysis on the Clean Air Act. We have done it on a couple of rules. Getting the benefit side right as well as the cost side right is the tough piece.

Mr. JOHNSON. Mr. Chairman, I yield back.

Mr. WHITFIELD. The gentleman's time is expired. At this time I recognize the gentleman from Louisiana, Dr. Cassidy, for 5 minutes.

Mr. CASSIDY. Sir, thanks for coming. Listen, it just so happens this morning I was meeting with some folks who are wholesalers of fuel, and so they tell me that in October of 2011 the EPA Office of Underground Storage Tanks announced a proposed revision to the 1988 Federal Underground Storage Tank regulation, and industry stakeholders along with the Petroleum Marketers Association of America submitted comments. EPA estimated the compliance costs to be about $900 per year per facility while the petroleum marketers and others estimate true costs to be $6,100 per year. Now, of course, this concerns them, and they are requesting that the EPA withdraw the proposed rule, which is to be finalized in October of 2013, this year, and form a small business regulatory advisory panel to determine the true compliance costs. They tell me a letter was received from EPA, and the letter did not agree to the regulatory advisory panel. I mean, here is a bunch of folks, some of whom are mom-and-pops, some of whom are large, and they are looking at a compliance cost of $6,100 a year, and I gather this is for the double tanks, not for the older steel with fiberglass but the current double tanks, so the ones which presumably are safer. Of course, this is a concern.

Now, I heard about this issue this morning but I am here to represent those folks providing services. Your thoughts on this and what we can do about it?

Mr. PERCIASEPE. Let me make sure I understood. You said there was a response already presented?

Mr. CASSIDY. There was a letter sent back, and apparently there still remains disagreement as to what the true compliance costs are.

Mr. PERCIASEPE. Well, I am not familiar with the specific issue that you are bringing up, but I can commit to you and to the committee that I will look into it personally, find out what the issues are. I do quite a bit of work myself with the small business part of our agency both in terms of our own acquiring of services as well as, you would be interested to know, almost 50 percent of our purchasing of services as an agency is by small businesses. But I am sensitive to this and I will find out what it is and get back to you.

Mr. CASSIDY. True compliance costs, and if there is a reluctance to form that advisory committee or at least have some ad hoc committee which comes to agreement.

Mr. PERCIASEPE. I understand what those panels are, yes.

Mr. CASSIDY. Secondly, in a previous hearing on formaldehyde, we had a report from the National Academy of Science, which pilloried the methodology used by EPA, and at the time I understand there were other critiques, very sharp, about how EPA is basing their regulations. Now, I am a doc, I am a physician, and I keep on wondering if the criticism is that your methodology is unclear and those articles selected among the many to choose from do not support the conclusions, in this case causing cancer or such like that. Why can't EPA beginning tomorrow to write documents that have clear methodology and have the same sort of standard that a peer-reviewed journal would require for such a thing? So one, my question is, why not, and two, if you say you are going to do so, when would that begin?

Mr. PERCIASEPE. And I would agree with you, why not. So after we got that report a couple years ago, we immediately embarked on a modification of how we do those programs. We have done a couple of them already. We submitted them back to the National Academy of Sciences to see if we are getting it right. We hired a new head of that part of our Office of Research and Development who is in the process of putting some additional modifications of that together, and we expect to be getting that out in the public shortly. So we are in the middle, if not near the end, I hope——

Mr. CASSIDY. So I know that some of these rules take a while to develop. Those that are halfway through the process, will they be redone to include this new, improved kind of standard methodology?

Mr. PERCIASEPE. We are trying to catch as many of them as we can. Keep in mind, these are the science assessments; they are not the actual——

Mr. CASSIDY. Let me get one more question if I can real quickly. Also, oftentimes EPA will make a rule, and I gather that the data are not made public, at least Congress doesn't know what the data are, and this may be related to it being proprietary, but heck, they are doing it with federal funds, and I know there is a big push to

have those medical research papers done with federal funds to have open source or free download. It seems like if this is being done with an EPA grant, we should be able to see those data as should anybody who would want to look at that methodology. Do you see where I am coming from?

Mr. PERCIASEPE. Yes.

Mr. CASSIDY. Any thoughts about that? What is the obstacles to getting the data? Can we start making that database?

Mr. PERCIASEPE. There are two categories of information that fall into this world. One is sort of a computer model and survey instruments and questionnaires that are used in the gathering of the information, and then of course there is the information itself. You have to sort of look at those things together. So whenever—so in the particular instance where we are currently working on this issue, we obviously don't currently have the data in our possession. So we have to work with the researchers and the other funders. Usually there is many, many funders, even if EPA is a small funder. So yes, we understand this issue and, yes, we are in the process of trying to, in the case of some of the particulate matter, epidemiological studies that I think you are probably referring to, we are in the process of trying to get some of those questionnaires and the front-end part of the data and then we are going to probably continue talking to the researchers about——

Mr. CASSIDY. I will yield back. We are out of time. You have been generous. But I would say, wouldn't it be great in terms of your contract up front you said your condition of accepting this contract is that this must be made public.

Mr. WHITFIELD. At this time the chair recognizes the gentleman from Colorado, Mr. Gardner, for 5 minutes.

Mr. GARDNER. Thank you, Mr. Chairman, and thank you, Mr. Perciasepe, for your time in front of this committee.

Just a quick question. Are you familiar with the Colorado Regional Haze State Implementation Plan?

Mr. PERCIASEPE. I know one exists but I can't tell you——

Mr. GARDNER. If you don't mind, I have some questions for you for the record to follow up.

Mr. PERCIASEPE. Yes.

Mr. GARDNER. I wanted to just shift a little bit over to some budget questions. We have heard people on this committee characterize the budget reductions as a result of sequestration as catastrophic, as ending the world as we know it. Maybe people believe that. Talking about dire consequences with the reductions, and I think it is what, a 3.5 percent reduction overall to the EPA budget from 2013 to 2014?

Mr. PERCIASEPE. From 2012. Well, 2013, it is lower because of the sequestration.

Mr. GARDNER. About a 3.6 percent reduction, 3.5 percent reduction. And you are aware that almost 80 percent of the households in America had about a 2 percent tax increase at the beginning of this year?

Mr. PERCIASEPE. Our budget in 2012 was $8.45 billion, and——

Mr. GARDNER. So it——

Mr. PERCIASEPE [continuing]. This request is $8.15 billion.

Mr. GARDNER. So you are aware, though, that most Americans, almost 80 percent of households experienced a 2 percent tax increase at the beginning of this year, a payroll tax increase?

Mr. PERCIASEPE. I have no reason to——

Mr. GARDNER. But I just want to just talk a little bit about the budget here. I have some charts I would like to share with you. This chart—we talk about budget cuts and what is happening. We talk about the impact that they have had on the EPA. This chart shows agencies with the most regulatory actions reviewed by OMB from 2009 to the present. Well, EPA is second. You have the second-most regulatory actions reviewed by OMB, the second-most concluded by OMB, and actually it looks like you have the highest number of actions pending, and this is despite cataclysmic budget cuts. If you look at the EPA rules finalized and published in the Federal Register, this chart shows that you have a—in 2012 you finalized 635 rules spanning 5,637 pages, this despite record budget cuts that would be ending the world as we know it. This chart here shows agencies with the most regulatory actions currently under review, going back to the other chart, EPA, 21, the highest of any of these agencies. Are you familiar—you were not there in 2009. Are you familiar with the budget in 2009, EPA's budget in 2009? It is about $7.6 billion in 2009. The budget request for 2014 is about $8.1 billion, so about half billion dollars difference.

In 2010, the EPA budget was about $10.3 billion, which was a 30 percent increase from 2009. So the budget has come down a little bit at the EPA. The budget request right now is about $296 million less than the 2012 enacted level. Isn't it true that in this year's EPA budget, you are just requesting half a billion dollars more than the Agency received in 2009? Is that correct?

Mr. PERCIASEPE. We are requesting less than we received in 2012.

Mr. GARDNER. But in 2009, it is about a half a billion dollars more.

Mr. PERCIASEPE. In 2009 and 2010, there was a large influx of infrastructure money under the America Recovery Act and related infrastructure money.

Mr. GARDNER. Is the air cleaner today than it was in 2009?

Mr. PERCIASEPE. I would hope so.

Mr. GARDNER. Will the air be cleaner next year than it was in 2009?

Mr. PERCIASEPE. I would hope so.

Mr. GARDNER. And so we are doing that despite the fact that there have been budget reductions.

Mr. PERCIASEPE. Well, the regulations we put in place every year, the cars are cleaner, so every year we buy 13 million new cars, thank goodness, and then——

Mr. GARDNER. And so that is happening despite the budget reductions.

Mr. PERCIASEPE. Because of the regulations, and that will happen in the future because of the regulations——

Mr. GARDNER. Despite the budget reductions.

Mr. PERCIASEPE. First of all, let me just say, the numbers you have up there don't appear to match the numbers that I have. I mean, the ones that are in——

Mr. GARDNER. We are happy to take your numbers.

Mr. PERCIASEPE. Well, all right. My numbers are for the first 4 years of this Administration, we finalized or proposed 434 rules compared to 536 the last 4 years of the last Administration. So I have very different numbers on——

Mr. GARDNER. I am happy to look at those numbers.

Mr. PERCIASEPE. However——

Mr. GARDNER. We can make new charts with your number. But I just asked a question. Are we reducing air pollution at an $8.1 billion request as we were with $7.6 billion? Are we going to have cleaner air next year?

Mr. PERCIASEPE. Well, if I point to the automobiles as a particular example——

Mr. GARDNER. So the answer is yes?

Mr. PERCIASEPE. The regulations that we put in place have been since 2009.

Mr. GARDNER. So the answer is yes? So we are actually able to have cleaner air today with more money than we did last year, with more money than we did in 2009. So even though you are not getting $296 million as much as you were last year, we are going to have cleaner air?

Mr. PERCIASEPE. And I never said we weren't.

Mr. GARDNER. Good. Does the EPA track total amount of the new compliance costs imposing through regulations every year?

Mr. PERCIASEPE. We do a cumulative assessment of the Clean Air Act.

Mr. GARDNER. What about other regulations? Do you track compliance costs on the regulations we have?

Mr. PERCIASEPE. We have some retrospective studies going on to look at what our estimates of the costs were and what they ended up actually being. Usually it ends up being less.

Mr. GARDNER. Can you provide the committee with total new compliance costs associated with all the new rules issued by the Agency in 2012?

Mr. PERCIASEPE. Whatever we have analyzed, we can provide.

Mr. GARDNER. Because I think if we are talking about the fact that EPA's budget is missing $296 million from last year, we have to remember that businesses are actually paying more in energy costs because of EPA regulations, that they are paying more because of payroll tax increases this year, and so when the EPA comes here and complains about a 3 percent budget cut——

Mr. RUSH. Mr. Chairman.

Mr. GARDNER [continuing]. The fact that households across this country have had their budgets cut, businesses have had their budgets cut, I think we ought to know that, and I think——

Mr. WHITFIELD. The gentleman's time is expired.

Mr. GARDNER. I would yield back my time.

[The charts from Mr. Gardner's presentation appear at the conclusion of the hearing.]

Mr. WHITFIELD. At this time I recognize the gentleman from Texas, Mr. Green, for 5 minutes.

Mr. GREEN. Thank you, Mr. Chairman. Again, I welcome our colleague. I know, Mr. Perciasepe, you have been here a while now.

I personally have been very interested for a number of years on the issue of electronic waste, and I have been working on the issue. We actually have legislation the last couple terms, and I have noticed that some in EPA believe the Agency should spend money and build capacity for managing e-waste in developing countries. While I agree that these countries need to do more to develop their capacity to manage their own e-waste, we must address the e-waste problem we have domestically. Greater investment in responsible recycling here at home could go far in helping curb e-waste problems overseas.

The committee recently held a briefing with the U.S. International Trade Commission regarding its study on e-waste and found that several industrialized countries such as Sweden, Belgium and Korea have high-tech smelting facilities that specialize in recovering gold, copper and valuable metals from the electronic waste. We were also told that no similar facilities operate in the United States. First of all, how much money did EPA request for international efforts to address electronic waste?

Mr. PERCIASEPE. I am afraid I don't know.

Mr. GREEN. I think we can find that out. I guess one of my concerns is, coming from an industrial area, it seems like we might have some impediments for creating one of those facilities, a high-tech smelting operation, because I know the problems with smelting, just like in my area, I have refineries in East Harris County. But is there something that the United States should say we want to be able to do this and create our own high-tech smelting operation? Obviously if these countries like Belgium and Sweden could be able to do it or even South Korea, we should be able to do it under our environmental laws. But we will go on to that later too at another time.

Has EPA studied the state-of-the-art smelting facilities abroad that specialize in processing e-waste and recovering the valuable metals? Do you know of anything that the EPA has done on that?

Mr. PERCIASEPE. We have been working in a voluntary way with many of the large producers of electronic products to come up with a long-term strategy. We have a partnership with a number of them. I am sure that the people who are working on that, and it is a priority for us to try to work on that——

Mr. GREEN. If you could get back with the committee, I would appreciate it.

Next question. In recent testimony, you mentioned that you were postponing release of the diesel guidance document for hydraulic fracturing and mentioned this would dovetail with a larger EPA study. Can you elaborate on how guidance to the UIC regulatory personnel and use of diesel during operation correlates with either the prospective or retrospective case study on the larger EPA study?

Mr. PERCIASEPE. I will try. First of all, as you probably know, the Underground Injection Control program doesn't get involved with hydraulic fracturing as a general matter because of exclusions in the law, but that——

Mr. GREEN. But the study was required by Congress.

Mr. PERCIASEPE. The study was required by Congress. The fact that when diesel fuel is used remained in the law so in the study

that is undergoing, we are working with some of the businesses and with some of the producers on technology and approaches they are using for exploration and production of natural gas wells, and we are looking at what the best management practices are, and we may learn from some of that, from some of the companies and some of the retrospective and prospective studies we are doing what new approaches might be available for well bore integrity and things of that nature, and it would seem that there is some logic to whatever we might do in the case where there is diesel fuel use, it would want to benefit from what we are learning there. I am using that as an example.

Mr. GREEN. And I appreciate EPA, and I look forward to the study, but as I have said before to administrators and even our Energy Secretary, you know, if we make it impossible to frack, we shut down this huge growth in reasonably priced energy, so we need to make sure it is done right and done safely.

The last thing, and Mr. Chairman, just a minute, our committee last Congress passed an E–Manifest bill, and it was for tracking hazardous waste shipments, and I appreciate EPA's work on that as really good bipartisan legislation came out of our committee, and the new electronic system will improve the transparency and efficiency of the data. Could you not, if not today, but get back with us? Because we want to do a full follow-up on how that is working with EPA and the success of it.

Mr. PERCIASEPE. I think that would be a great idea. We are starting to formulate the approach where we come and give the committee a briefing on the status of that. It is a really good program. We are so appreciative of the work all of you have done on it.

Mr. WHITFIELD. We will work with them on that. Thanks, Mr. Green. At this time I recognize the gentleman from Kansas, Mr. Pompeo, for 5 minutes.

Mr. POMPEO. Thank you, Mr. Chairman.

I want to talk about a piece of legislation I have and it relates to a budget item that you have as well. This year, the EPA's budget calls for a little less than $63 million in chemical risk reduction and about $3.5 million in chemical risk management. Included in that would be enforcement of the Clean Air Act general duty clause, section 112(r) of the Clean Air Act. Are you at least somewhat familiar with that provision?

Mr. PERCIASEPE. I know what 112(r) is, yes.

Mr. POMPEO. Fair enough. So just to be clear, operators have a general duty to design and maintain a safe facility if they are processing, handling or storing a specific list of chemicals or other extremely hazardous substances, which EPA admits is undefined because there has been no guidance, there have been no guidelines. In fact, Ms. Jackson testified that there has been no EPA definition of "extremely hazardous substances" in front of this committee. It is a very vague law, and I think that creates enormous regulatory risk. I think it is not the way to do it. This bill has been in the hopper for a while. In light of what happened with the Internal Revenue Service this week, I think specificity is very reasonable to make sure that agencies don't prosecute these things in a way that are either inconsistent across regions or disfavor folks whoever

they might be. We saw what happened in West, Texas, the tragedy there related to ammonium nitrate that was stored on site, but that is regulated today by DHS but is not listed and not covered under EPA's RMP program.

I have a couple of concerns. We have got this incredibly vague section which doesn't provide notice for folks on how to store chemicals and what chemicals are covered, and then this general duty clause on top of it that doesn't tell these operators what to do. So my legislation, it does something very odd for someone who sits on this side of the dais. It asks the EPA to issue a regulation. It asks you to clarify what this means. I am glad I got that out of my mouth and didn't choke. But I am happy to withdraw the legislation if I could get you today to tell me that you all will begin the process to develop a regulation to clarify what is in the general duty clause and what it is you all intend to do with that.

Mr. PERCIASEPE. I certainly commit to look at that. You know, it has been looked at before, and because of the nature of what we are talking about, it gets complicated very quickly, and I think you are probably aware of it, and we also have the potential need to coordinate with other responsibilities like worker exposure and also national security, homeland security. I think we are going to find out today from the State folks what their best guess is of what happened at West, Texas. They briefed the governor yesterday and they are supposed to announce, I think, at noon at 1 o'clock Central Time. So I think what I heard was it looked like it was the ammonium nitrate, because what we are looking at under the Clean Air Act at this time is the stuff that would be getting into the air, which would be the anhydrous ammonia, and if the full tank of anhydrous ammonia at that particular facility leaked out in the middle of the night in the summer when everybody had their windows open, it would be quite a substantial impact.

But your point is well taken. I think that in light of the tragedy there and in light of some of the work that you have been doing, it is certainly something we need to turn our attention to. I can't commit to any particular process at this time.

Mr. POMPEO. Then I will continue to proceed, and we hopefully can work together to get this done. I just don't see why when you are in this constrained environment that we have been talking about all morning you would seek to go regulate in a space that is already highly regulated. I have to tell you, it continues to confound me.

Mr. PERCIASEPE. Well, that is why I am in the position to want to look at what all the other agencies do and maybe get that better coordinated before I do anything else.

Mr. POMPEO. That would be awesome. I appreciate that.

Last thing. Some folks here this morning have used different words to describe EPA's budget in 2014. Some would suggest that it was crippling. I have probably heard that we are gutting various statutes. I have been in Congress 27 months, so dozens and dozens of times. Would you use—the 2014, would you describe the 2014 as crippling an agency with 18 some thousand employees?

Mr. PERCIASEPE. I think that the 2014 budget that the President has proposed is adequate to obviously maintain what we are responsible to do. I mean, we wouldn't have proposed that budget if

it wasn't. But embedded in that budget are some real ideas to try to make ourselves even more efficient in the future, and again, I hope that the committee will see its way through. It has been a leader in the e-manifest, and I think that if you work with us on some of the other ideas to make the agency more efficient, it would be in everybody's long-term interest.

Mr. POMPEO. We look forward to that. Thank you very much. Thanks, Mr. Chairman.

Mr. WHITFIELD. Thank you, and Mr. Perciasepe, I am sorry to say this concludes the hearing. But we do appreciate your being with us very much this morning, and Mr. Rush and I and the other members look forward to having an opportunity to spend another morning with you soon, perhaps.

The record will remain open for 10 days, and the staffs on both sides will be getting the material for a follow-up for additional comments from you all.

Mr. PERCIASEPE. And I won't forget my commitment at the beginning of the hearing to get to the answers.

Mr. WHITFIELD. Thank you very much, and that will conclude today's hearing.

[Whereupon, at 12:36 p.m., the subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

PREPARED STATEMENT OF HON. ADAM KINZINGER

Administrator Perciasepe, thank you for being here today to provide testimony and answer questions on your agency's FY2014 budget request.

In the committee's role of providing oversight over EPA, we want to ensure that our nation's resources are protected according to the law while preserving individual and economic freedom. As we continue to experience unacceptably slow economic growth, it will be important that we do not apply additional barriers from Washington. As a budget reflects priorities, the focus of your agency's budget should be on how to best protect Americans' health and our environment without adding unnecessary burdens to individuals and job-creators.

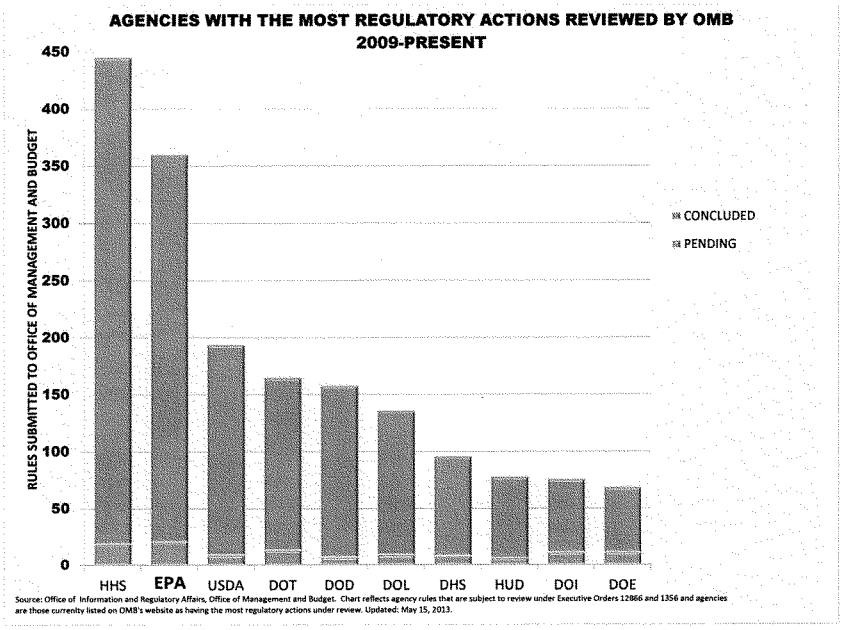
Undoubtedly, the EPA plays an important role protecting our nation's environment and local communities from bad actors and other hazards. Throughout my district there are sites being investigated and cleaned up under Superfund authority. To highlight a recent example, the town of Wedron, Illinois started receiving Superfund emergency funding in 2011. Residents of that town have been trying to identify the source of a contaminated water supply for nearly three decades. I have made it a priority to work with the EPA and the Illinois EPA to help solve this problem, find solutions to protect the town's resources, and ensure residents have access to clean, safe drinking water.

I was discouraged, then, to see a budget reduction for the Superfund program in your agency's request. Having worked with the EPA with this program, I have seen how limited resources can delay agency actions for communities in need. EPA's emphasis should be on protecting taxpayers and the American environment first, and I would hope its budget will reflect that.

As we look to spur economic growth and create better opportunities for Americans, it will be important that EPA works with the committee to help protect our environment without unnecessarily hurting American jobs. The EPA should not regulate what Congress does not legislate. I look forward to working with you and your agency to help achieve this balance and ensure Americans do not suffer under unnecessary burdens and regulations.

"But as I said, oil and gas is an enforcement priority, it's one of seven, so we are going to spend a fair amount of time looking at oil and gas production. And I gave, I was in a meeting once and I gave an analogy to my staff about my philosophy of enforcement, and I think it was probably a little crude and maybe not appropriate for the meeting but I'll go ahead and tell you what I said. It was kind of like how the Romans used to conquer little villages in the Mediterranean. They'd go into a little Turkish town somewhere, they'd find the first five guys they saw and they would crucify them. And then you know that town was really easy to manage for the next few years. And so you make examples out of people who are in this case not compliant with the law. Find people who are not compliant with the law, and you hit them as hard as you can and you make examples out of them, and there is a deterrent effect there. And, companies that are smart see that, they don't want to play that game, and they decide at that point that it's time to clean up. And, that won't happen unless you have somebody out there making examples of people. So you go out, you look at an industry, you find people violating the law, you go aggressively after them. And we do have some pretty effective enforcement tools. Compliance can get very high, very, very quickly. That's what these companies respond to is both their public image but also financial pressure. So you put some financial pressure on a company, you get other people in that industry to clean up very quickly. So, that's our general philosophy."

-Administrator Armendariz


AGENCIES WITH THE MOST REGULATORY ACTIONS REVIEWED BY OMB
2009-PRESENT
RULES SUBMITTED TO OFFICE OF MANAGEMENT AND BUDGET
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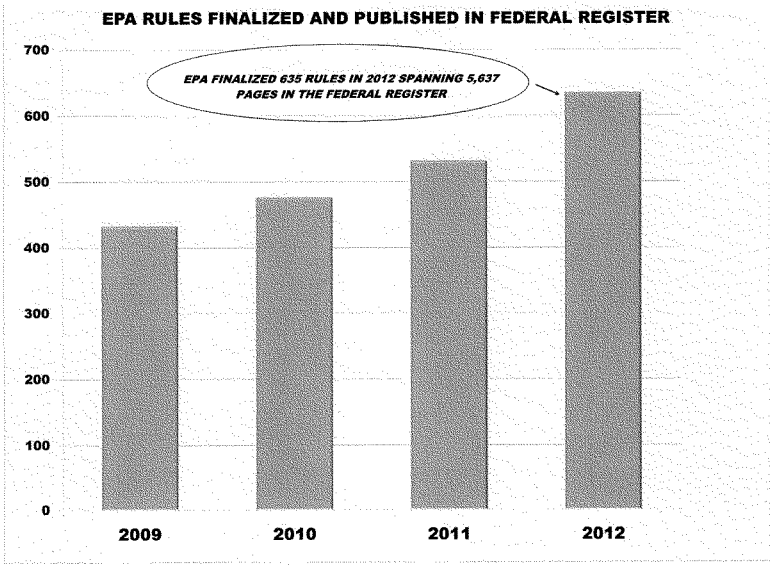
Source: Office of Information and Regulatory Affairs, Office of Management and Budget. Chart reflects agency rules that are subject to review under Executive Orders 12866 and 1356 and agencies are those currently listed on OMB's website as having the most regulatory actions under review. Updated: May 15, 2013.


EPA RULES FINALIZED AND PUBLISHED IN FEDERAL REGISTER
EPA FINALIZED 635 RULES IN 2012 SPANNING 5,637 PAGES IN THE FEDERAL REGISTER
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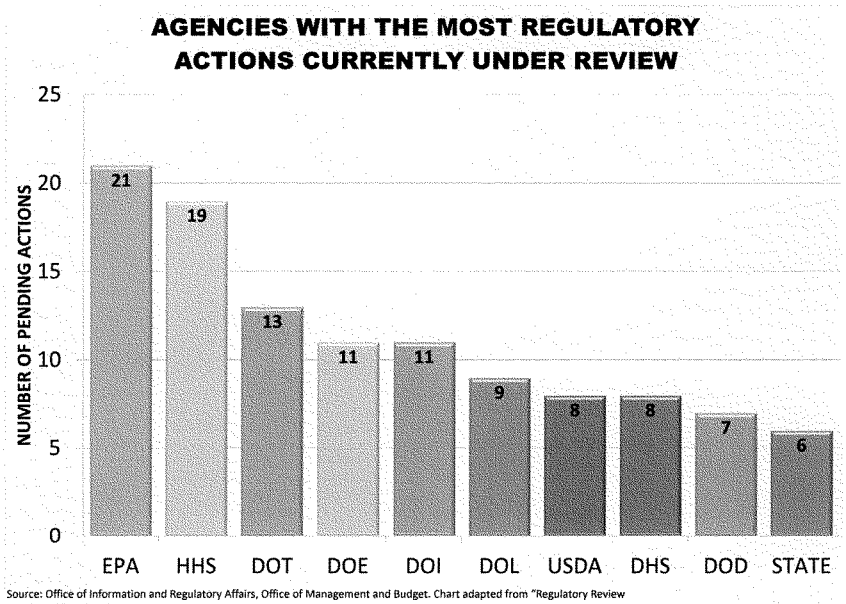

Source: Office of Information and Regulatory Affairs, Office of Management and Budget. Chart adapted from "Regulatory Review Dashboard." Updated May 15, 2013

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

JUN 20 2013

THE INSPECTOR GENERAL

The Honorable Ed Whitfield
Chairman
Subcommittee on Energy and Power
Committee on Energy and Commerce
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is the Office of Inspector General's response to your letter dated June 6, 2013, to the U.S. Environmental Protection Agency's Acting Administrator Robert Perciasepe that included questions for the record relative to the EPA's budget hearing held on May 16, 2013. The OIG is responding directly to you about our activities.

I appreciate your interest in the work of the OIG. If you or your staff should have any questions on this or any other matter, please contact Alan Larsen, counsel to the inspector general, at (202) 566-2391.

Sincerely,

Arthur A. Elkins Jr.

Attachment

HOUSE COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON ENERGY AND POWER
SUBCOMMITTEE ON ENVIRONMENT AND THE ECONOMY

"The Fiscal Year 2014 Environmental Protection Agency Budget"

Questions for the Record, Mr. Robert Perciasepe, Acting Administrator
U.S. Environmental Protection Agency

Questions submitted by Ed Whitfield and John Shimkus, Chairmen

The Honorable Ed Whitfield

1) **Concerns have recently been raised that the EPA has engaged in a pattern of granting Freedom of Information Act (FOIA) fee waivers to environmental groups while denying fee waivers to conservative groups, and we understand that you have contacted the agency's Inspector General regarding conducting a programmatic audit to address these concerns.**
   a. What is the status of this audit?
   b. What will be the scope of the audit?
   c. When will the audit be completed?

   The Office of Inspector General plans to begin preliminary research on the U.S. Environmental Protection Agency's Freedom of Information Act fee-waiver process. We plan to determine whether the EPA:
   1. Implements the FOIA fee-waiver provisions in accordance with the Code of Regulations at 40 CFR Section 2.107 and EPA policies and procedures.
   2. Adheres to timely and unbiased treatment of fee-waiver requests.
   3. Tracks the elements of fee-waiver requests to demonstrate timely and unbiased treatment.

   During the preliminary research phase, we plan to obtain information to address the above questions, which are subject to change as we conduct our work. We plan to review documents, analyze data, and interview managers and staff from the EPA's Office of Environmental Information. We will inform the committee on the expected completion timeframes.

The Honorable Joe Barton

1) In your testimony, you indicated that you have contacted the Inspector General regarding a programmatic audit to address the recent allegations of political bias in EPA's awarding of fee waivers for Freedom of Information Act requests.
   a. Has EPA submitted a formal request for an audit?
   b. Has the Inspector General agreed to perform the audit?
   c. What will be the nature and scope of the Inspector General's review and audit?

d. Will you share the findings of the Inspector General audit with Members of this Committee and the public?

The OIG received a written audit request on May 22, 2013. We plan to begin preliminary research on the U.S. Environmental Protection Agency's Freedom of Information Act fee-waiver process. We plan to determine whether the EPA:

1. Implements the FOIA fee-waiver provisions in accordance with the Code of Regulations at 40 CFR Section 2.107 and EPA policies and procedures.
2. Adheres to timely and unbiased treatment of fee-waiver requests.
3. Tracks the elements of fee-waiver requests to demonstrate timely and unbiased treatment.

During the preliminary research phase, we plan to obtain information to address the above questions, which are subject to change as we conduct our work. We plan to review documents, analyze data, and interview managers and staff from the EPA's Office of Environmental Information. We will post the final report to the OIG's public website.

Questions for the Record
Subcommittee on Energy and Power
Subcommittee on Environment and the Economy
Fiscal Year 2014 Environmental Protection Agency Budget
May 16, 2013

The Honorable Tim Murphy:

1: With respect to EPA and FOIA fee waiver requests, I hope you will submit for the record the value of FOIA fees waived by EPA.

Answer: The EPA, as reported in its Freedom of Information Act (FOIA) Annual Report to the Department of Justice in Fiscal Year 2012 (available online: http://www.justice.gov/oip/reports.html), spent $18,018,517 for FOIA processing. During the same period the EPA collected $385,722 which equated to 2% of the cost of the program.

The Honorable Michael C. Burgess:

1: Lisa Jackson went to the United Nations Conference on Sustainable Development, referred to as Rio+ 20. How much did we spend to send Lisa Jackson to Rio 20?

Answer: The total travel cost to send Lisa Jackson to Rio+20 was $3,831.00. This figure comes from the Administrator's travel voucher and includes airfare, hotel, per diem, etc.

The total cost to send Lisa Jackson and support staff to Rio +20 was $43,806.00. This number includes costs for Lisa Jackson, two staff from the Administrator's Office, one security employee and two people who were on the advance team for a total of six people traveling. The total trip budget is made up of the following:

Administrator and Staff Expenses for Rio + 20 Conference	
Travel costs (airfare, per diem, hotel, airport expediting fees, etc) for Lisa Jackson and 2 EPA staff	$12,127.00
Ground transport for armored (1) and non-armored (3) vehicles including drivers' time	$18,742.00
Travel costs for security (1 person) and advance staff (2 people)	$12,937.00
Total Cost	**$43,806.00**

The Honorable Bill Cassidy:

1: In October of 2011 the EPA Office of Underground Storage Tanks announced a proposed revision to the 1988 Federal Underground Storage Tank regulation, and industry stakeholders along with Petroleum Marketers Association of America submitted comments. EPA estimated the compliance costs to be about $900 per year per facility while the petroleum marketers and others estimate true costs to be $6,100 per year. Now, of course, this concerns them, and they are requesting that the EPA withdraw the proposed rule, which is to be finalized in October of 2013, this year, and form a small business regulatory advisory panel to determine the true compliance costs. They tell me a letter was received from EPA, and the letter did not agree to the regulatory advisory panel. What are the true compliance costs? Is EPA reluctant to form an advisory or other committee to determine the true compliance costs?

Answer: In order to determine which changes to make to the UST regulations, the EPA conducted extensive outreach to stakeholders for several years. We reached out to a variety of stakeholders including owners and operators such as the Petroleum Marketers Association of America (PMAA). We recognized that many of our stakeholders are small businesses and as a result, we made a concerted effort to avoid costly retrofits. We carefully evaluated the costs associated with the proposal and determined that they did not meet the threshold to convene an advisory panel. Before, during, and since the end of the rulemaking comment period, we have held more than 100 meetings with stakeholders. We met with all stakeholders who asked to do so, including PMAA. In order to ensure all stakeholders had an opportunity to comment on the proposal, we extended the comment period from 90 to 150 days.

The EPA takes the comments we received during the comment period, including those from PMAA, very seriously. After receiving comments, the EPA worked diligently to understand PMAA's cost information comments so that we could rigorously evaluate our cost analysis. We appreciate the detailed response from commenters and believe we fully understand the comments including the compliance costs submitted by PMAA and others. We are currently working to determine the appropriate path forward using the comments we received to help inform our decision making. Costs and benefits associated with the final rulemaking will depend on the scope and content of the final rule.

The Honorable H. Morgan Griffith:

1: In the case of the Clean Air Act, for consent decrees there is a statutory opportunity to comment before they are entered by the court. Does opportunity for public comment ever result in changes to a settlement? We are aware of only one instance involving technology and residual risk reviews for various sources where that has occurred. Can you get that information?

Answer: Public comments on proposed consent decrees and settlement agreements have resulted in changes to the terms of the final versions of those agreements. As required by section 113(g) of the Clean Air Act, the EPA provides notice in the Federal Register of proposed settlement agreements and consent decrees, and allows the public to comment on them. While the EPA does not usually receive comments on proposed settlement agreements or consent decrees, whenever it

does, the EPA evaluates them to determine whether changes to the settlement agreement or consent decree are warranted.

In response to public comment related to *Sierra Club v. EPA*, 4:09-cv-152 (N.D. CA), after the section 113(g) process and before we finalized the consent decree, we negotiated modified deadlines for proposed and final actions with regard to technology and residual risk review. That is not the only time we have done so. For example, there was also a comment in *Sierra Club v. EPA*, 1:12-cv-00013 (D.D.C.) that resulted in changes. South Carolina filed an adverse comment on a proposed consent decree regarding a proposed deadline for the EPA's action on an element of a South Carolina state implementation plan. As a result of the comment, we renegotiated the consent decree and took that deadline out of the consent decree. The modified consent decree was entered by the court on October 1, 2012.

The Honorable John D. Dingell:

1: I see that the President's fiscal year 2014 budget request for CERCLA or superfund is $33 million less than for fiscal year 2012. Can CERCLA continue to fulfill its duties and its current cleanup responsibilities and obligations without slowing down significantly because of this reduction in funding? Would you submit some additional information on that issue, please, so that we may evaluate that more adequately?

Answer: The Superfund Program's priority remains protecting the American public and reducing risk to human health and the environment by cleaning up contaminated sites. While continuing to rely on the agency's Enforcement First approach to have potentially responsible parties conduct or pay for cleanups, the Superfund Remedial program will continue to focus on completing ongoing projects and maximizing the use of site-specific special account resources. The Agency will also continue to place a priority on achieving its goals for two key environmental indicators, Human Exposure Under Control (HEUC) and Groundwater Migration Under Control (GMUC).

Many federal programs have undergone substantial reductions in the past several years to help address national budget deficits. The President's FY 2014 budget request had to make difficult choices with regard to funding EPA programs, including the Superfund Remedial program. The FY 2014 President's Budget request for the Superfund Remedial program represents a $26 million reduction from the FY 2012 Enacted level but an increase of $32 million from FY 2013 post-sequester funding levels (primarily due to the sequestration reduction of $22 million). The reductions over the last two years are having an impact on program performance throughout the cleanup pipeline leading to a cumulative reduction in the EPA's ability to fund remedial investigation/feasibility studies (RI/FSs), remedial designs (RDs), remedial actions (RAs) and ongoing long-term response actions. Based on current planning data the number of new EPA-financed construction projects that will not be funded could number as many as 40-45 by the end of FY 2014.

The Honorable Ed Whitfield:

1: A FOIA-related situation has recently come to my attention that raises questions about whether the EPA may employ a similar practice when it comes to granting timely access to public records under the FOIA process. A case in point has arisen out of Louisiana, where an advocacy group, the Louisiana Bucket Brigade (LABB), was able to gain access, through FOIA, to an EPA draft RMP inspection report of the Baton Rouge Refining Facility, within 16

days of its original FOIA request of Dec. 14, 2012 (Tracking Number: EPA-R6-2013-002185). Conversely, an industry trade association, the Louisiana Mid-Continent Oil & Gas Association (LMOGA) submitted a FOIA request (Tracking Number: EPA-R6-2013-005253) on April 8, 2013, for information related to the fulfilling of LABB's Dec. 14, 2012, FOIA request, yet as of May 20,2013 – 42 days later – its request has not been answered.

a. Given the concerns that have been raised about potential bias when it comes to FOIA fee waivers, can the EPA say with certainty that when it comes to the timeliness of processing FOIA requests that there is not a bias in favor of environmental groups over industry organizations, state or local governments?

Answer: The EPA reviewed its fee waiver decisions and determined that the Agency acted appropriately without any individual bias or partisan ideology. Individual bias or partisan ideology is not practiced by the Agency in its FOIA program, including the timeframes in which requests are answered. It is the EPA's policy to process requests on a "first in, first out" basis in programs and regions, unless a request for expedited processing has been granted. The EPA's regulations governing the FOIA process, including responses to FOIA requests, are available on its FOIA website at http://www.epa.gov/foia/.

b. Will EPA include review of FOIA response times in the agency's upcoming audit of its FOIA fee-waiver practices?

Answer: The Office of Inspector General notified the Agency's Chief Information Officer on June 19, 2013 that, in response to the request from the Acting Administrator, it would be reviewing the Agency's fee waiver process, including timeliness and equity in decision-making of these requests.

c. What protocols does the Agency currently have in place for monitoring and ensuring adequate FOIA response times in accordance with FOIA and case law?

Answer: To monitor and better ensure timeliness in responding to FOIA requests, the EPA deployed FOIAonline, its new FOIA management and records repository tool, in October 2012. FOIAonline automates most FOIA administration activities -- bringing needed efficiencies to Agency FOIA processes. FOIAonline provides automated workflows which allow staff to quickly deliver requests to the organizations that have responsive records and post those records online for public access. To increase accountability at the highest levels across the Agency, beginning in July 2013, the Agency FOIA Officer will begin providing quarterly reports on the status of FOIA requests to Agency senior leaders so that they are aware of and can address any processing delays. To ensure that Agency employees are aware of their FOIA responsibilities and know how to respond to requests, the EPA is developing online training for all FOIA personnel and employees including specialized training for managers who make decisions on the release of documents. These trainings will be mandatory and available by December 31, 2013. In addition, the EPA holds yearly training sessions for all Agency FOIA professionals. The Agency FOIA Officer holds monthly meetings with EPA FOIA Officers and FOIA Coordinators in which they receive training and guidance.

d. Is the EPA aware of any instances in which it has answered a FOIA request through the unofficial sharing of relevant documents and information in lieu of formally releasing the requested information via a publically accessible database?

Answer: The EPA's current practice is to make FOIA responses available through the FOIAonline tool where feasible. Historically, the EPA has responded to FOIA requests by sending its official responses, including any relevant documents, directly to FOIA requesters. In some instances, when the EPA determined that there would be multiple requests for the same documents or significant interest in the documents, the EPA proactively posted the documents in an electronic reading room. The Agency did not begin to post all responsive records in a database until FOIAonline was deployed in October 2012. The Agency does not usually provide records requested under FOIA when those records are in the public domain (i.e., websites, dockets, publications, etc.). The requester is informed where the records can be obtained.

2: With respect to the Clean Air Act's regional haze provisions, does EPA agree that the Clean Air Act as written and as amended gives the states, rather than the federal government and the EPA, primacy over visibility and regional haze standards? If not, please explain.

Answer: We agree that states have the initial and primary responsibility to develop regional haze plans under the Clean Air Act (CAA) and the EPA agrees that the EPA should give deference to state decisions that have followed the regional haze rule guidelines and result from a rigorous analysis of control options, control costs, and visibility impacts. The EPA has been collaborating with the states and with their regional planning organizations since 1999 on the development of regional haze plans. Our preference and practice has always been to allow states that are moving forward to complete their work, and then to give due deference to the emission control decisions that they reach based on accurate technical information. If the state has used a technically flawed assessment of costs or visibility improvement, the EPA cannot approve the state's decision and the state must revise its plan or the EPA is obligated to adopt a Federal plan. We have fully approved regional haze plans in 19 states and have approved reliance on the Cross-State Air Pollution Rule to satisfy regional haze requirements for power plants in 14 other states. We have only issued full federal plans for three states who asked us to do so. Partial federal plans (covering a small number of specific sources) where the EPA disagreed in part with the state's assessment are in place in eight states. In those instances where we have put in place a federal plan, the 2-year "clock" for the state to submit an approvable state implementation plan had already run out. We are committed to continuing to work with the states that are now subject to a federal plan on approvable revisions to their state plan to ensure that the state plans fully meet the requirements of the regional haze rule. For example, collaborative efforts between the EPA and state officials in Oklahoma and New Mexico have been successful in crafting acceptable alternatives to the federal plans that the EPA initially put in place. When a revision to a state plan is submitted to the EPA and approved, we will withdraw our federal plan.

3: EPA has proposed a regional haze regulation for the Navajo Generating Station that could require an investment of more than $1 billion with potentially no perceptible visibility improvements. In particular, a study done by the Department of Energy's National Renewable Energy Laboratory (NREL) last year concluded: "The body of research to date is inconclusive as to whether removing approximately two-thirds of the current NOx emissions from Navajo Generating Station would lead to any perceptible improvement in visibility at the Grand Canyon and other areas of concern." Does EPA reject NREL's conclusion? If yes, please explain the basis for rejecting this conclusion.

Answer: The EPA proposed a Best Available Retrofit Technology (BART) emission limit that can be achieved with the installation of selective catalytic reduction (SCR) with low-NOx burners and separated over fire air (LNB/SOFA). The proposal includes options for extended compliance schedules and a framework for other possible alternatives that stakeholders may want to offer. As stated in our proposed rulemaking, the EPA estimates the total capital costs of our proposed BART determination to be $541 million.

The EPA disagrees with NREL's conclusion on the effects of emissions from the Navajo Generating Station (NGS) on visibility at areas of concern in the region. NREL's expertise is in the power sector, including fundamental energy science, energy analysis, and validating new products for commercial markets. NREL performed no visibility modeling of their own to support their statements regarding anticipated visibility improvements. In addition to the quote cited above from the NREL study, the conclusion in the NREL report further states that resolving questions regarding visibility science requires expertise in atmospheric chemistry and air transport modeling, not power sector expertise. The National Park Service, the Federal Land Manager charged with the protection of visibility at all National Parks, has been at the forefront of visibility science since the inception of the visibility provisions of the 1977 amendments to the Clean Air Act. In a letter dated April 6, 2012 to the EPA, the National Park Service expressed its concerns regarding the inadequacy of two sections of the NREL analysis: the discussions of control technologies and visibility science. Specifically, the National Park Service stated that the NREL study makes a number of inappropriate comparisons between models and modeling results. The National Park Service further supported key inputs used in the EPA's modeling analysis. The EPA's analysis demonstrates that the installation and operation of the proposed BART controls at NGS would result in the largest visibility improvements in the nation from the control of a single stationary source.

4: The Navajo Generating Station plant is critical to the Arizona economy and jobs, and to the Central Arizona Water Project. In the proposed rule, EPA itself states that "the importance to tribes of continued operation of NGS and affordable water costs cannot be overemphasized." Is it reasonable for EPA to propose requiring the owners to spend hundreds of millions of dollars, or possibly over $1 billion, for potentially no perceptible visibility improvements? Can EPA commit that the agency will not finalize a rule that effectively forces the facility to shut down all or a significant part of its operations?

Answer: The EPA recognizes the important role of NGS to the economy of numerous Indian tribes, as well as to the broader regional and state economies. The EPA considered all information provided to us regarding the economic and employment benefits of NGS in our proposed rulemaking. As described in our proposed rule, the EPA understands that the timing of regulatory compliance is critical to the continued operation of NGS. As an alternative to the BART proposal, the EPA proposed a "better than BART" approach that provides significant additional time for compliance. Additionally, the proposed rule puts forth a framework for developing other alternatives and encourages the owners of NGS and other stakeholders to use this framework to develop other alternatives that would provide additional flexibility in the compliance timeframe. These alternatives would help assure continued operation of NGS while ensuring greater reasonable progress than BART towards the national visibility goal set by Congress in the Clean Air Act. This is consistent with the action the EPA took with the Four Corners Power Plant (http://www.epa.gov/region9/air/navajo/pdfs/four-corners-final-fact-sheet-08-06-2012.pdf).

The EPA proposed a BART emission limit that can be achieved with the installation of selective catalytic reduction (SCR) with low-NOx burners and separated overfire air (LNB/SOFA). As stated in our proposed rulemaking, the EPA estimates the total capital costs of our proposed BART determination to be $541 million. As discussed in our proposed rule, the owners of NGS installed LNB/SOFA on each unit over 2009 – 2011, at a total cost of $45 million. Therefore, the EPA estimates the cost of SCR alone to be $496 million. The EPA estimates that the total annual cost (operation and maintenance costs plus the annualized capital costs) of our proposed rule to be $64 million per year. Under the EPA's proposed BART alternative, these costs would not be incurred in full until 2023.

The analysis for our proposed rulemaking includes an affordability study that estimates the electricity generation costs of SCR compared to the costs of purchasing an equivalent amount of power on the wholesale market. The results of this analysis show that the cost of the installation and operation of SCR is less than the total cost to purchase electricity on the wholesale market from elsewhere in the West. The economic analysis conducted by NREL resulted in similar conclusions. Given the results of the EPA and NREL's economic analyses and the additional time for compliance that the EPA has proposed, we do not believe that NGS would shut down as a result of the EPA's BART determination.

As of July 26, the EPA has received approximately 40,000 comments on the proposal, as well as an alternative BART proposal from a Technical Working Group (TWG) comprised of the Department of the Interior (DOI), Salt River Project, the Navajo Nation, the Gila River Indian Community, the Environmental Defense Fund, Western Resource Advocates, and the Central Arizona Water Conservation District that follows the framework we laid out in the BART proposal. This alternative clearly represents significant work and expertise from many key stakeholders. The EPA looks forward to carefully reviewing this and any other alternative proposals that follow the framework we laid out and intends to provide sufficient opportunity for the public to review and comment on them before finalizing a BART determination for NGS.

5: Under the Montreal Protocol and Title VI of the Clean Air Act, EPA has been phasing out the consumption and production of hydrochlorofluorocarbons (HCFCs). What is EPA's timetable for proposing and promulgating rules governing HCFC allowances for the period of 2015-2019? What steps is EPA taking to ensure that the proposed rule can be completed well enough in advance of 2015 so that companies and industries can plan and operate their business accordingly?

Answer: With regard to the 2015-2019 HCFC Allocation Rule, the EPA plans to issue a proposed rule by the end of 2013 and a final rule in 2014. To ensure this rule is completed in a timely fashion, the agency has been meeting with numerous industry stakeholders over the past six months to discuss the specifics of the rule and plans to submit the proposal to the Office of Management and Budget for interagency review this summer. The proposed rule should provide the industry with significant advance notice of the agency's plans for the 2015 allocation.

6: During the FY 2014 budget hearing before the Interior Appropriations Subcommittee, you were asked about EPA's proposed order revoking the food uses for sulfuryl fluoride. As you are aware, EPA had strongly encouraged the agricultural and food production sectors to transition to sulfuryl fluoride as a substitute for methyl bromide. In your testimony, you stated that EPA is "sympathetic to the problem" created by the proposed order and acknowledged the pending legislation that would direct EPA to withdraw it. You also testified that "sulfuryl fluoride is a pretty important fumigant," "a good replacement" for

methyl bromide," and an "important tool." Does this mean that EPA is willing to work with Congress to provide certainty to the agricultural and food production sectors that they will be able to continue using sulfuryl fluoride to protect America's food supply from dangerous and destructive pest infestations?

Answer: The agency has been and remains willing to provide technical assistance to Congress on drafting legislation regarding the tolerances for sulfuryl fluoride.

7: EPA publishes hundreds of final rules each year in the Federal Register. Does EPA track the number of rules it issues each year? If yes, please provide of final rules published for each of the following years: 2009, 2010, 2011 and 2012.

Answer: The Congressional Review Act (CRA) requires an agency promulgating a rule to submit the rule to Congress and to the Government Accountability Office (GAO) before it can take effect. GAO compiles statistics on its own website about all final agency rulemakings received under the CRA at http://www.gao.gov/legal/congressact/fedrule.html. According to GAO's database, the EPA published 406, 442, 482 and 584 rules subject to the CRA in 2009, 2010, 2011 and 2012, respectively. This number includes hundreds of routine and/or frequent actions such as State Implementation Plans approvals and pesticide tolerances.

8: Does EPA track the total new compliance costs of the rules it issues each year? If yes, please provide the estimated total compliance costs for EPA rules published in 2009, 2010, 2011 and 2012.

Answer: The EPA routinely reports estimates of both benefits and costs in regulatory impact analyses prepared for each of its major rules. The Office of Management and Budget (OMB) compiles estimates of the total annual benefits and costs of major rules by Agency. The table below shows aggregate benefits and costs for the years in question, drawing on the information presented in OMB's Reports to Congress on the Benefits and Costs of Federal Regulations and Unfunded Mandates on State, Local and Tribal Entities.

It is important to note that any aggregate estimate of total costs and benefits must be highly qualified. Problems with aggregation arise due to differences in baselines and assumptions, data limitations, and inconsistencies in methodology and type of regulatory costs and benefits considered. The aggregate estimates presented combine annualized and annual numbers. Cost savings are treated as benefits. Further, the ranges presented below do not reflect the full range of uncertainty in the benefit and cost estimates for the rules. Limitations in existing information and methods prevent the quantification and monetization of relevant benefits and costs and these categories may be significant.

Total Annual Benefits and Costs of Major, EPA Rules
(in billions)

Fiscal Year	Benefits	Costs	Number of Rules
2012	$28.5 to $77.5	$8.3	3
2011	$20.5 to $59.7	$0.7	3
2010	$10.8 to $60.8	$1.9 to 3.6	6
2009	$.46 to $5.2	$.11 to 2.2	1

Note: Totals do not reflect rules promulgated jointly with other Agencies.

Source: OMB, Report to Congress on the Benefits and Costs of Federal Regulations and Unfunded Mandates on State, Local and Tribal Entities. 2013 (draft), 2012, 2011, 2010.

9: Section 321(a) of the Clean Air Act requires the EPA "conduct continuing evaluations of potential loss or shifts of employment which may result from the administration or enforcement of the provision of this Act and applicable implementation plans, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such administration or enforcement."

a. Has EPA ever conducted a study or evaluation under Section 321(a)? If yes, please describe each study or evaluation, when it was conducted, and the results of the study or evaluation.

b. Has EPA ever investigated a threatened plant closure or reduction in employment allegedly resulting from administration or enforcement of the Clean Air Act? If yes, please describe each such investigation, when it was conducted, and the results of the investigation.

Answer: Section 321 provides a mechanism for the EPA's investigation of particular claims of job loss related to plant closure or layoffs in response to environmental regulation. The EPA could not find any records of any requests for Section 321 investigations of job losses alleged to be related to regulation-induced plant closure. As a result, the EPA has not conducted any studies or evaluations under Section 321(a). Nevertheless, since 2009, the EPA has focused increased attention on consideration and, where data and methods permit, analysis of potential employment effects as part of the routine regulatory impact analyses (RIAs) conducted for each major rule.

10: In its 2010 proposed ozone rule, EPA estimated that the costs to the American manufacturing, agriculture and other sectors could reach $90 billion per year. Many have raised concerns that with such costly rules, we are driving manufacturing and agricultural production out of the U.S. to other countries with lax environmental standards.

a. In analyzing these regulations, does EPA consider the economic and environmental effects of driving manufacturing offshore to countries with little or no environmental controls?

b. If yes, please explain. If not, why not?

Answer: The EPA has found no empirical evidence that air pollution regulation has caused U.S. manufacturing to shut down domestic operations and move overseas. Of layoffs events reported to the Bureau of Labor Statistics by U.S. businesses in 2011, only 0.23% were due to Government regulation of any kind, and the rest were due to other factors like routine business cycles, company reorganizations, and weather events.[1]

More than forty years of experience with the Clean Air Act has shown that America can build its economy and create jobs while cutting pollution to protect the health of our citizens and our

[1] Bureau of Labor Statistics, Mass Layoff Statistics Program. http://www.bls.gov/mls/mlsreport1039.pdf. December 2012.

workforce. Between 1970 and 2011, the economy grew by 212 percent, while emissions of the six most common air pollutants fell by 68 percent and private sector jobs grew by 88 percent. [2]

11: When President Obama announced Executive Order 13563 in 2011, he promised "to remove outdated regulations that stifle job creation and make our economy less competitive," However, based on review of EPA's most recent retrospective review of regulations, it appears EPA has only completed review of 13 regulations. Most of the revisions appear to be minor, and one of the revisions actually increases regulation.

a. How many regulations has EPA reviewed as part of this process?

Answer: In early 2011, President Obama issued EO 13563 in coordination with his plan to create a "21st-century regulatory system" that protects public health and welfare while at the same time promoting economic growth, innovation, competitiveness and job creation. As part of this plan, the EPA reviewed existing regulations to determine which could be modified, streamlined, expanded or repealed to make our regulatory system more efficient and effective. The agency thoughtfully selected 35 actions to retrospectively review. As of our July 2013 progress report the EPA has completed 18 reviews. Our next progress report is due to OMB in January 2014

b. Is the agency continuing to take steps to eliminate outdated or unnecessary regulations? If yes, please describe the steps being taken and the regulations which have been eliminated.

Answer: Yes, the agency continues to take steps to eliminate outdated or unnecessary regulations. In addition to continuing work on the remaining actions in our plan, statutes may affirmatively require the EPA to consider specific factors in reviewing regulations or contain express limitations regarding what the Agency is prohibited from taking into account. Numerous statutory provisions require the EPA to periodically review Agency rules, including provisions in the Clean Air Act (CAA), the Clean Water Act (CWA); the Safe Drinking Water Act (SDWA); Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, or Superfund), Resource Conservation and Recovery Act (RCRA); Toxic Substances Control Act (TSCA); Marine Protection, Research, and Sanctuaries Act (MPRSA); Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); and Emergency Planning and Community Right-to-Know Act (EPCRA). The EPA's most recent Regulatory Agenda contains information and upcoming milestones for each of our active regulatory actions, including those that are periodic reviews.

Further, the EPA has a long history of reviewing regulations and related activities at its own discretion in an effort to continually improve its protection of human health and the environment and eliminate unnecessary burden on regulatory entities. It is the Agency's ongoing responsibility to listen to regulated groups and other stakeholders; rely on the EPA's expertise and quality scientific and economic analyses; address petitions for regulatory revisions; and otherwise respond to public and internal cues that indicate when reviews are necessary.

The Honorable John Shimkus

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[2] Source: U.S. Department of Commerce, U.S. Department of Transportation, U.S. Department of Labor, U.S. Census, U.S. Energy Information Administration, U.S. EPA.

1: Please provide for the record the amount spent by EPA for all testing and any other assessments and other work done by the Agency and related hydraulic fracturing at Dimock, PA; Pavillion, WY; and Parker County, TX.

Answer: An estimated $4.7 million has been spent for assessment-related activities at these sites from FY 2009 through FY 2013.

2: The President's proposed FY14 budget requests $14.1 million for the EPA, DOE, and USGS to collaborate on hydraulic fracturing. Last fiscal year, the President made the same request, bringing total proposed spending on this item to around $22 million.

a: Does this request differ from the FY 2013 request?

Answer: The $14.1 million FY 2014 request is for the same amount of resources as the total FY 2013 request. In FY 2013, the EPA spent $6.1 million to continue the Study of the Potential Impacts of Hydraulic Fracturing on Drinking Water Resources, equal to the amount provided in FY 2012.

The requests are similar though they are not identical. For example, in FY 2013 and FY 2014, the EPA requested to focus on three research areas: continuing work on drinking water study; water quality and ecological studies; and air quality studies. However, in the FY 2013 request, the EPA included potential screening for seismic risks from HF. In the FY 2014 request, this area is not part of the EPA's planned research, because it falls under the core competencies of the EPA's other Federal research partners.

b: How much are DOE and USGS budgeting for this work?

Answer: The FY 2014 request for the EPA, DOE, and USGS to collaborate on hydraulic fracturing research totals $44.7 million. The EPA is requesting $14.1 million, DOE $12.0 million, and USGS $18.6 million.

c: How much of your $14 million fracturing collaboration budget for FY 2014 is for continuing EPA's ongoing study into the potential impacts of hydraulic fracturing on groundwater?

Answer: Of the $14.1 million FY 2014 request, $6.1 million is for continuing work on the Study of the Potential Impacts of Hydraulic Fracturing on Drinking Water Resources.

d: Could you please provide for the record all the detail you have on EPA's proposed specific uses for that $14.1 million request?

Answer: The President's Budget for FY 2014 requests a total of $14.1 million for the EPA to conduct UOG research. Resources are requested in three research areas: (a) continuing work on drinking water study ($6.1 million); (b) water quality and ecological studies ($4.3 million); and (c) air quality studies ($3.8 million). These research areas are among those identified as high priority research topics as part of the tri-agency effort and represent the EPA's FY 2014 contribution to that effort.

With respect to the drinking water study, a draft report of the study results is expected to be provided to the Science Advisory Board for peer review and public comment in December 2014. FY

2015 resources will be used to revise the report, as needed, to reflect the comments received during public comment and peer review.

3: Battelle, an organization that EPA has used extensively in the past, just issued a report questioning the Agency's ability to reach meaningful conclusions using the Agency's current study plan, particularly its methodology and the retrospective case studies.

a: Are you aware of or have you seen this new Battelle report?

Answer: Yes, the EPA is aware of the Battelle report, has received copies of the report, and is currently reviewing the report.

b: If so, do you share Battelle's concerns about your hydraulic fracturing study's methodology?

Answer: The EPA continues to welcome input concerning the agency's ongoing studies of hydraulic fracturing. We are currently reviewing the Battelle report and will consider and evaluate the results and conclusions in that report.

c: Are you willing to have EPA re-evaluate the work it has done to date, including the likely scientific merit of any results that may come out of the study?

Answer: The EPA's research products, such as papers or reports, are subjected to both internal and external peer review before publication. These peer review activities are designed to ensure that data are collected, analyzed, and used appropriately and that results and conclusions are supported by the best possible science. The EPA's external peer reviews are conducted following the Agency's Science Policy Council Peer Review Handbook (USEPA 2006) and OMB Information Quality Guidelines.

As we are conducting a broad review of the literature and reference documents to inform our December 2014 draft report of results, the EPA is following guidelines set forth in US EPA (2003) A Summary of General Assessment Factors for Evaluating the Quality of Scientific and Technical Information, US EPA Science Policy Council, Washington, DC. It is expected that information included in the synthesis report will be drawn primarily from peer reviewed publications.

4: EPA is considering the issuance of Federal guidance on the use of diesel fuel in hydraulic fracturing under its Underground Injection Control program. Yet, EPA has not established that such a federal action is needed to protect underground sources of drinking water as required under section 1421(b) of the Safe Drinking Water Act. The agency has not studied the need for requiring a Class II UIC permit, nor does it appear that EPA is taking into consideration "varying geologic hydrological, or historical conditions in different State and in different areas within a State" as also required by the Act (section 1421(b)). Finally, what gap in regulation is EPA trying to address with its guidance?

Answer: Through the 2005 Energy Policy Act's amendments to the Safe Drinking Water Act (SDWA), Congress established that hydraulic fracturing operations that use diesel fuels as components of fracking fluids are subject to regulation under the Underground Injection Control (UIC) program. Through its diesel fuels hydraulic fracturing guidance, the Agency will provide its interpretations of

the 2005 statutory amendment and existing regulations as well as non-binding technical recommendations for implementing such requirements.

a: Why does the proposed guidance attempt to expand EPA's definition of "diesel fuel?"

Answer: There is no single way of defining diesel fuels accepted universally. In preparing its draft guidance, the EPA reviewed definitions from other statutes, federal programs, and industry literature, and found that many different parameters are considered by each program depending on the application. In order to enhance clarity and transparency, the EPA's draft guidance describes how the agency plans to interpret the statutory term "diesel fuels" in implementing the UIC program. As provided in the agency's draft guidance, the EPA's proposed interpretation is tightly drawn from the plain language of the statute – interpreting "diesel fuels" to mean substances with "diesel fuel" as its primary name or synonym, as found on well-recognized chemical registries.

b: What could come under that definition in the future?

Answer: The draft guidance does not limit EPA's authority to revise its interpretation of the term "diesel fuels" in the future as necessary or appropriate if new products are identified as diesel fuels.

c: Does EPA have a means or process to add new substances in the future to the definition of "diesel?"

Answer: The EPA is currently focused on reviewing the more than 97,000 public comments it received on the draft guidance and on making appropriate revisions to the guidance based on these comments. The agency will work to ensure that any revised guidance takes into account the dynamic nature of oil and gas production technologies as it defines the term "diesel fuels."

d: Are you considering revisiting the diesel fuels guidance idea? If so, will you commit to avoid an overly expansive definition?

Answer: The EPA is currently focused on reviewing the more than 97,000 public comments it received on the draft guidance and on making appropriate revisions to the guidance. Any revised guidance will reflect the public comments the EPA has received on the definition.

5: The President's proposed FY14 budget request for Leaking Underground Storage Tanks (LUST) represents a decline of 4.7 percent from the enacted level in FY12. Since LUST is funded from its own Trust Fund, rather than General Treasury monies, does the decline in request mean there is less of a need in this program area?

Answer: No, the decline in request does not mean there is less of a need in this program area. Many federal programs have undergone substantial reductions in the past several years to help address national budget deficits. The President's FY 2014 budget request had to make difficult choices with regard to funding the EPA's programs, including the LUST program. LUST funding is essential to maintaining a strong prevention and cleanup program. While the agency and states have made good progress in the LUST program, there is still significant work to be done. There are more than 80,000 confirmed releases that have not yet been cleaned up, with nearly 6,000 new releases reported each

year. In addition, the Energy Policy Act of 2005 has a mandate to inspect every tank at least once every three years – which serves a vital role in helping to ensure proper operation of USTs.

6: Pesticide registrants are willingly paying more in PRIA fees to cover a much higher percentage of the overall OPP budget. Ironically, rather than focusing on the robust scientific review of pesticides, the current EPA strategic plan suggests that the agency's goal is "to reduce pesticide use" outright-- a goal not stated in any law. Rather than focusing OPP resources on the most significant programmatic challenges and potential risks to human health, EPA is redirecting significant resources and personnel to lower risk issues like school IPM. Is EPA taxing OPP resources by prioritizing the low risk programs, while underfunding the core mission of the office which is to soundly implement statutory obligations under FIFRA, FQPA, and PRIA?

Answer: The EPA's mandate under FIFRA, as amended by FQPA and PRIA, is to ensure that pesticides, when used in accordance with the label, do not cause unreasonable adverse effects on people or the environment; FIFRA gives the agency many tools to achieve that goal. By far, the largest share of OPP's resources go toward the careful scientific review of pesticides through the registration and registration review programs to ensure that pesticides meet that standard when they are initially registered and continue to meet the standard as long as they are on the market. While these programs enable us to focus on the safety of individual pesticide products, educational programs authorized under FIFRA, like school IPM and worker safety programs, also can make important contributions to the safe and effective use of pesticides.

In addition to the registration and registration review programs, PRIA-3 Registration Service Fees also are authorized for:

- EPA staff (FTEs) who evaluate covered pesticide applications, associated tolerances and corresponding risk and benefits analyses;
- Contractors who review covered pesticide applications and corresponding risk and benefits assessments;
- Advisory committees that peer review covered pesticide assessments;
- The costs of managing information, including acquisition and maintenance of computer resources (including software) used to support necessary pesticide analyses, as well as the costs of collecting, reporting, accounting, and auditing registration service fees;
- Worker protection and applicator training and for partnership grants such as those used to facilitate the adoption of IPM practices in schools and to increase adoption of reduced risk pest management practices; and
- Reduced timeframes for decisions on reduced risk pesticides.

We have put in place accounting and management systems that ensure PRIA funds are spent only on authorized activities.

7: Your FY 14 budget request includes $60 million for an E-Enterprise effort at EPA to reduce the reporting on regulated entities and provide easier access to and use of environmental information. Will statutory changes be needed to effectuate these changes?

Answer: As background, E-Enterprise for the Environment is a major effort to transform and modernize how the EPA and its partners conduct business. It is a joint initiative of states and the EPA

to improve environmental outcomes and dramatically enhance service to the regulated community and the public by maximizing the use of advanced monitoring and information technologies, optimizing operations, and increasing transparency. This multi-year effort will allow us to reduce future costs for regulated entities and the states while giving the public access to more comprehensive, timely data about the environment.

At this time, the EPA anticipates that most of the changes to implement E-Enterprise can be made through changes to the EPA's regulations, program operations, policies, and information systems. By the end of FY2014, the EPA should know whether any statutory changes are necessary, perhaps similar to the statutory change that created E-Manifest.

a: Will EPA be building this E-Enterprise itself or, like e-manifest, contracting this work out to the private sector?

Answer: E-Enterprise includes a number of complex and simultaneous projects, including streamlining regulations, enhancing information technology systems, expanding public transparency, and improving collaboration among the EPA and the states. The EPA, in collaboration with our state partners, expects to primarily use contractors to build the information technology components of E-Enterprise. The EPA generally relies on contractors to build and operate national information systems, and this is likely to be how we build out the IT components of E-Enterprise.

b: Does EPA envision a user fee to pay for operation of this system and, if so, who will be asked to pay?

Answer: The EPA has not evaluated the need for a user fee for E-Enterprise, other than the user fee that was recently established by the new legislation creating E-Manifest which is part of E-Enterprise.

8: The President's proposed FY14 budget request suggests four criteria by which to view Agency operations, including: "fostering better relations with the regulated community." What are some things the Agency has in mind to succeed in this area?

Answer: The EPA strives to have collaborative working relationships with all stakeholders in the regulatory process. Working closely with the regulated community can lead to better programs that are more effective and efficient. To that end, continuously improving relations with members of the regulated community has been a long-standing goal of the Agency. Just a few of the general means available to the agency for collaboration with the regulated community on regulations include the notice and comment process of the Administrator Procedure Act, the Small Business Regulatory Enforcement Fairness Act and the use of public meetings related to regulations under development. In addition, like other Federal agencies, the EPA publishes a Semiannual Regulatory Agenda and an annual Regulatory Plan. These documents describe regulations currently under development or recently completed.

Over the years, the EPA has used both formal and informal processes for engaging stakeholders. For example, soon after the 1990 amendments, formal regulatory negotiations produced agreements on proposed rules to prevent toxic emissions from equipment leaks, set requirements for cleaner "reformulated" and "oxygenated" gasolines, and cut toxic emissions from steel industry coke ovens. Informal talks and consultation with advisory committees produced agreement on rules that control acid rain and phase out chlorofluorocarbons, which deplete the stratospheric ozone layer.

A recent example where the EPA's extensive stakeholder outreach led to successful rulemaking process is the EPA's and the Department of Transportation's National Highway Traffic Safety Administration's (NHTSA) joint rulemaking to develop the first National Program of harmonized standards to reduce greenhouse gas (GHG) emissions and improve fuel economy from cars and light trucks. These standards, broadly supported by stakeholders, will result in significant GHG reductions and oil savings and save consumers money at the pump. In developing the rule, the EPA met extensively with a wide range of stakeholders, including automakers, automotive suppliers, labor unions, consumer groups, environmental interest groups, state and local governments, and national security experts and veterans. The input from stakeholders was invaluable in ensuring that EPA had the most comprehensive set of data and other information possible to inform the proposals.

Another recent example of a successful rule resulting from the EPA's stakeholder outreach includes the GHG Reporting Rule. The EPA met individually with a diverse range of stakeholders to seek their input, including members of the power industry and related trade associations, vendors of air pollution control and monitoring technology, engineering firms, and regional transmission operators that distribute electric power. These discussions helped shape key provisions to minimize compliance burden and protect electricity reliability while meeting emission standards. For the GHG Reporting Rule, the EPA actively sought input from stakeholders through holding technical meetings. To date, the GHG Reporting Program has held nearly 500 outreach meetings, webinars, and public hearings. Based on stakeholder input, the EPA provided extensive website postings for every action taken and efforts to highlight public comment periods for rules, information collection requests, and other Federal Register notices. The EPA also made the electronic GHG reporting system available to the reporting community prior to finalizing and launching the software, resulting in over a thousand stakeholders providing valuable feedback.

The EPA plans to build upon these efforts to engage with stakeholders in the future to continue to develop efficient and effective regulatory processes.

9: One of the Obama Administration's new initiatives at EPA for FY 2014 is "Next Generation Compliance" and "evidence-based enforcement and compliance." What is "evidence-based" enforcement and why do you need $4 million dollars for it?

Answer: A key theme of the President's budget is using evidence and evaluation to inform our efforts and make our programs work more effectively. The Evidence-Based Enforcement and Compliance grants program will assist states in developing and implementing innovative measures for assessing the performance of enforcement and compliance programs. They also will help the states design and implement innovative enforcement tools or approaches and measure the impact of such approaches. The grants will build capacity for collecting, using, and sharing enforcement and compliance data, and for determining the most efficient and effective practices for improving compliance. Evaluation of new approaches will help to determine those most promising for potential expansion and replication.

10: As part of the "Next Generation Enforcement", EPA is requesting $2.8 million for "targeted, intelligence based" enforcement activities. From where or how does EPA intend to gather this information and in what kinds of cases will it be used?

Answer: The EPA's Criminal Enforcement program is requesting $2.8 million to enhance its ability to gather and analyze data from commercially available databases, trade associations and their resources, and unclassified databases from other federal, state, and local law enforcement partners. The request includes contractor support to link these various data streams, including the Criminal Case Reporting System, civil enforcement and compliance data and environmental permitting and licensing data, and to create a data repository for each investigation that will support advanced search and analysis tools. This will help the criminal enforcement program to better align resources on the most egregious violations of the law that have the most significant impact on human health and the environment and understand those sectors, geographic areas, or individual companies that may have consistent patterns of violations. The EPA will focus its limited investigative resources on those companies seeking an unfair competitive advantage and on those groups of companies where statutory environmental obligations are intentionally disregarded.

This funding will also provide the EPA with critical contract support in the area of evidence data management, which is increasingly more important as the Agency focuses on the initiation of the larger, more complex cases that generate the greatest deterrence impact. An investment in evidence data management, along with training, equipment, and contractor support, will allow the EPA's investigative agents to obtain and securely manage the ever growing volume of evidence, both paper and electronic, that is involved with complex criminal investigations. In turn, this capability will enable our criminal investigators to effectively take on more complex criminal investigations involving large volumes of data obtained during an investigation.

11: The President's proposed FY14 budget requests $62.7 million for the development, peer review, and finalization of risk assessments of additional TSCA work plan chemicals. How many new work plan chemicals will EPA propose in FY14? What are they?

Answer: The President's proposed FY 2014 budget request of $62.7 million is for the entire Chemical Risk Review and Reduction program. The EPA is planning to allocate $13.7 million and 44.8 FTE to the Screening and Assessing Chemicals work area in FY 2014, under which the development, peer review, and finalization of work plan chemical risk assessments is funded.

In June 2012, from the list of 83 Work Plan chemicals, the EPA identified 18 chemicals for which the Agency expected to initiate risk assessments during Fiscal Years 2013 and 2014. (http://www.epa.gov/oppt/existingchemicals/pubs/Work_Plan_Chemicals_Web_Final.pdf). In March 2013, the EPA announced the chemicals that the EPA will begin assessing in 2013, including 20 flame retardant chemicals and three non-flame retardant chemicals. Five of these chemicals were included on the list of 18 chemicals announced in June 2012 and one was from the Work Plan of 83 chemicals. Currently, the EPA expects to initiate assessments in FY 2014 for the remaining 13 chemicals identified for review in FY 2013 – FY 2014. They are:

- Five Chlorinated Hydrocarbons:
  - 1,1-Dichloroethane
  - 1,2-Dichloropropane
  - 1,2-Dichloroethane
  - trans-1-2-Dichloroethylene
  - 1,1,2-Trichloroethane
- 4-tert-Octylphenol

- Four Fragrance Chemicals:
  - Ethanone, 1-(1,2,3,4,5,6,7,8-octahydro- 2,3,8,8-tetramethyl-2-naphthalenyl)-
  - Ethanone, 1-(1,2,3,4,5,6,7,8-octahydro- 2,3,5,5-tetramethyl-2-naphthalenyl)-
  - Ethanone, 1-(1,2,3,5,6,7,8,8a-octahydro- 2,3,8,8-tetramethyl-2-naphthalenyl)-
  - Ethanone, 1-(1,2,3,4,6,7,8,8a-octahydro- 2,3,8,8-tetramethyl-2-naphthalenyl)-
- 4-sec-Butyl-2,6-di-tert-butylphenol
- 2,4,6-Tri-tert-butylphenol
- P,p'-Oxybis(benzenesulfonyl hydrazide)

12: Regarding the Endocrine Disruptor Screening Program, what percentage of chemical screens used in the program are not validated?

Answer: The U.S. Environmental Protection Agency has validated all of the eleven assays that comprise the Tier 1 screening battery. The agency has validated one of the five assays that comprise the Tier 2 tests.

a: How many more need to be validated?

Answer: Four of the Tier 2 test assays need to be validated. The FIFRA SAP held in June 25-28, 2013 was focused on receiving input from the panel on the validation effort on the four ecotoxicity tests and the next steps will involve considering the SAP recommendations, developing the test guidelines, and standard evaluation procedures. (https://federalregister.gov/a/2013-07641.)

The FIFRA SAP will prepare meeting minutes summarizing its recommendations to the Agency approximately 90 days after the June 25-28th meeting. The meeting minutes will be posted on the FIFRA SAP Web site or may be obtained from the OPP Docket or at http://www.regulations.gov.

b: How many tests are validated?

Answer: The agency has validated all eleven assays that comprise the Tier 1 screening battery. The agency has validated one of the five assays that comprise the Tier 2 tests.

c: What role is EPA ascribing to adverse effects from its screening data vs. testing data?

Answer: The Endocrine Disruptor Screening Program is a two-tiered screening and testing program. Tier 1 screening identifies chemicals that have the potential to interact with the endocrine system, while Tier 2 testing will confirm whether the chemical interacts with the endocrine system, and provide data to support a risk assessment.

While Tier 1 screening level information may provide information on some adverse effects, the study designs limit the ability to quantitatively detect effects on the endocrine system that may lead to adversity. Tier 2 testing consists of longer-term, repeat dosing, multi-generational studies that are designed to detect more subtle and sensitive adverse endocrine effects.

13: EPA's proposed budget for FY14 mentions plans to transform the enforcement and compliance program.

a: Does this mean that EPA will be restructuring its workforce?

Answer: The EPA's FY 2014 budget request continues to invest resources in high priority areas with the greatest impact on public health, while reducing resources devoted to lower priority areas. In light of current budget constraints and to make the program more efficient and effective, the EPA will continue to examine the areas most appropriate for reduction while implementing new enforcement approaches such as Next Generation Compliance.

In recent years, the enforcement program has been engaged in priority setting exercises and has offered limited Early Out / Buy Out opportunities to employees in order to realize efficiencies, ensure that the program has the necessary skill mix to implement new approaches, and continues its vigorous enforcement of the nation's environmental laws to protect public health and the environment. This restructuring of positions and use of new approaches reflects the modern era of environmental protection which increasingly relies on use of advanced monitoring technology and other tools.

The Next Generation Compliance approach includes multiple components: determining the role and use of modern monitoring technology to detect pollution problems; eliminating paper based reporting to enhance government efficiency and reduce paperwork burden; enhancing transparency so the public is aware of facility and government environmental performance; implementing innovative enforcement approaches; and structuring our regulations to be more effective and achieve higher compliance. Next Generation Compliance is fully consistent with and a key component of the agency's new E-Enterprise initiative. The wider E-Enterprise initiative aims at reducing burden on industry, improving services for the regulated community and the public, and transforming the way environmental protection work is done by the EPA, states, and Tribes in the future.

b: Are national enforcement initiatives or other criminal and civil enforcement being driven by the program offices, DOJ, or Office of Enforcement and Compliance Assurance?

Answer: The EPA's Office of Enforcement and Compliance Assurance (OECA) aggressively addresses pollution problems that make a difference in communities through vigorous civil and criminal enforcement that targets the most serious water, air and chemical hazards. In support of those efforts, OECA reevaluates its National Enforcement Initiatives every three years to assure that federal enforcement resources are focused on the most important environmental problems where noncompliance is a significant contributing factor, and where federal enforcement attention can have a significant impact.

The National Enforcement Initiatives are developed through an extensive collaborative effort involving states, the EPA Regions, our federal partners, and the public. Comments and inputs are sought through stakeholder meetings, OECA's National Program Manager's Guidance (to regions and states) and a Federal Register Notice (to solicit input on the selection of the initiatives). The EPA's criminal enforcement program identifies and investigates cases with knowing, intentional, or criminally negligent violations of our nation's environmental laws. The program focuses on cases with significant environmental and human health impacts, including death and serious injury.

After a collaborative comment process, OECA recently announced the decision to continue the current set of FY 2011-2013 National Enforcement Initiatives into FY 2014-2016. These initiatives focus on:

- Keeping Raw Sewage and Contaminated Stormwater Out of Our Nation's Waters
- Preventing Animal Waste from Contaminating Surface and Ground Waters
- Cutting Toxic Air Pollution that Affects Communities' Health
- Reducing Widespread Air Pollution from the Largest Sources, Especially the Coal-fired Utility, Cement, Glass, and Acid Sectors
- Reducing Pollution from Mineral Processing Operations
- Assuring Energy Extraction Sector Compliance with Environmental Laws

14: Does your proposed Superfund budget, include funds for starting work on any new sites? Are there any you expect to complete?

Answer: The EPA is continuing to fund Superfund projects started in prior years. The Agency places a priority on continuing to fund ongoing work to avoid demobilization and other costs associated with stopping work. Because of funding constraints, including those resulting from sequester, the EPA will only be able to fund a limited number of site assessment projects needed to determine whether a site will qualify for the National Priorities List (NPL). For sites on the NPL, the EPA will have to delay certain in-depth investigations needed to develop a cleanup remedy decision, and, where a decision has been made, not all remedy designs needed for construction projects will be funded this year. For sites ready for construction, we anticipate being only able to fund a small number of projects depending on availability of funds. As a result, by the end of Fiscal Year 2014 there may be as many as 40-45 new construction projects waiting for EPA funding. The Agency does anticipate completing remedy construction at 15 Superfund sites. The EPA will continue to focus on completing individual project phases (site assessments, investigations, designs and construction) consistent with the Integrated Cleanup Initiative (ICI) started three years ago. However the overall pace of the remedial cleanup program will continue to slow due to funding constraints.

15: EPA is seeking to justify its costly proposed 316(b) rule, which would affect more than 1,260 power plants and industrial facilities nationwide, on the basis of a public opinion survey asking "how much" a random group of individuals would be willing to pay to reduce fish losses at intakes. This willingness-to-pay approach to determining "benefits" contrasts sharply with the far more traditional approach used by EPA in its earlier 316(b) rulemakings. The earlier analyses relied on actual market prices and costs incurred by individuals, rather than hypothetical questions in a public survey. The "willingness-to-pay" or "stated preference" survey is clearly intended to increase the anticipated benefits of the proposed rule. Yet such stated preference surveys are notoriously difficult to design and implement and often are very unreliable. Using such unreliable benefit estimates will inappropriately lead to cooling water controls that are neither necessary nor cost beneficial and that will not deliver the anticipated benefits but will materially affect compliance and consumer costs. Given all these problems, is EPA going to withdraw the survey and clarify that the survey and its results are inappropriate to use in implementing the final rule?

Answer: Conventional benefits analyses are generally not able to include all monetary estimates for all categories of environmental benefits. Stated preference surveys are a tool that can address categories of benefits that would otherwise not be monetized. The EPA did receive many comments

on the stated preference survey, including both supportive and critical comments regarding the stated preference survey methodology. The EPA is working through all of the comments received and will make a determination as to the form of the final benefits analysis only after obtaining further independent professional judgment concerning the survey and suggestions for possible future improvements to the survey from the EPA's Science Advisory Board.

The Honorable Phil Gingrey

1: Each year since 2003, EPA has issued a notice to receive applications for a Critical Use Exemption (CUE) for methyl bromide under the Montreal Protocol. In announcing the final CUE allocation decisions, the agency has identified the commodities eligible to use methyl bromide under a CUE, as well as the conditions, such as the presence of weeds or plant pests that existed that supported the need for the CUE. These uses have included, for example, use by cucurbit growers, eggplant growers, pepper growers, strawberry growers, sweet potato growers, tomato growers, turfgrass producers and users, forest seedling growers and nurseries, stone fruit, table grapes, raisins, walnut and almond growers, ornamental growers, U.S. millers of rice, wheat and com products, and California handlers of walnuts, beans, dried plums, raisins, and pistachios. Since 2011, the EPA has essentially reduced or rejected the CUE applications by these user groups. It has done that despite the fact that the potential tools that EPA maintains are available in lieu of methyl bromide have not increased, but have actually decreased or faced significant regulatory challenges of their own, while the weeds or plant pest complexes continue to be a problem.

a: In view of the significant potential adverse economic and job impacts on those applicants in the agricultural and food production sectors whose applications have been rejected or had their requests substantially reduced, will EPA consider changing its approach and recognize the continuing substantial need for the product under the CUE process?

Answer: Under the Montreal Protocol on Substances that Deplete the Ozone Layer and the Clean Air Act, production and import of methyl bromide, other than for exempted uses, has been banned since 2005. The Montreal Protocol and Clean Air Act authorize critical use exemptions when the Parties to the Montreal Protocol agree that a demonstration has been made for a specific use that: there are no technically and economically feasible alternatives to methyl bromide, and further that all technically and economically feasible steps have been taken to minimize the critical use and any associated emission of methyl bromide; that methyl bromide is not available in sufficient quantity and quality from existing stocks of banked or recycled methyl bromide; and that research programs are in place to develop and deploy alternatives and substitutes to methyl bromide.

The Environmental Protection Agency (EPA), the U.S. Department of Agriculture (USDA), and the Department of State have worked with agricultural stakeholders for over a decade to ensure that we put forward the best possible annual nomination to the Parties to the Montreal Protocol, consistent with the requirements of the Montreal Protocol – a nomination that has carefully examined the impacts that would flow from not having methyl bromide and that meets the critical use criteria. We then must defend those nominations at international meetings. We have continued to look for ways to ensure we have complete, up-to-date information from growers for the nomination, and to make the nomination process more transparent. Those efforts have certainly improved our ability to

document our requests so that they are successful and we will continue to look for other means of improving the process in the future.

For 2015, the U.S. government nominated California strawberries, dried cured pork products, and fresh dates. This nomination resulted from a rigorous technical review as government partners met with agricultural stakeholders, researchers and fumigators, and evaluated data and current research to establish an internationally defensible basis for our nominations.

b: Is EPA open to receiving supplemental requests for methyl bromide, and if so, will the agency fairly and reasonably evaluate such requests?

Answer: Yes, the EPA is open to receiving and reviewing supplemental requests for methyl bromide critical uses. Supplemental requests serve as an important flexibility mechanism in the Montreal Protocol treaty's process to address changes in national circumstances or new data that affect the transition to alternatives that may have occurred since the initial nomination was submitted. The EPA will work with stakeholders to ensure that there are no technical challenges or market implications that have not been fully considered, and will explore the variety of tools available to us to address documented concerns in a timely way. If warranted by additional assessment, the U.S. government may pursue supplemental CUEs for 2015.

The Honorable Ralph M. Hall

1: It is our understanding that EPA has been enforcing the requirements of the NSPS, Subpart UUU for Calciners and Dryers in Mineral Processing Industries against foundries, despite the fact that the agency never intended to include foundries as a source category for this rule. In April 2008, EPA proposed regulatory language to specifically exempt foundries from the requirements of Subpart UUU, but has never taken final action on the proposed regulatory language. Why has EPA failed to promulgate the exemption for foundries from NSPS, Subpart UUU consistent with the original intent of the rule? When can we expect EPA to take final action on its proposal?

Answer: The New Source Performance Standards for Calciners and Dryers in the Mineral Industries, commonly referred to as NSPS Subpart UUU, applies to foundries which process industrial sand in calciners and dryers. As early as 1986, the EPA stated in the preamble to the Notice of Proposed Rulemaking that the rule "would apply to new, modified, and reconstructed calciners and dryers at mineral processing plants." In both the proposed and final rules, the EPA defined a mineral processing plant as "any facility that processes or produces any of the following minerals…." In the preamble and final rule, the EPA listed "industrial sand" as one of the listed minerals, and broadly defined the affected facility, "dryer," as "the equipment used to remove uncombined (free) water from mineral material through direct or indirect heating." Furthermore, based on our reading of the regulatory text, the EPA issued several applicability determinations, beginning in 1993, that foundries were subject to subpart UUU. As a result, where foundries process the listed mineral "industrial sand" they meet the definition of "mineral processing plant" and the "calciners and dryers" that are used by these foundries to process the industrial sand are subject to NSPS Subpart UUU.
On April 22, 2008, as part of our proposed amendments to the NSPS for Nonmetallic Mineral Processing Plants (subpart OOO), even though this is a different source category, we used this opportunity to request public comments on the applicability of subpart UUU to sand and

reclamation processes at metal foundries. The proposal also noted that the request for comments on subpart UUU is not a full NSPS review pursuant to section 111(b)(1)(B) of the Clean Air Act.

After further consideration, we decided not to take final action on the exemption for subpart UUU when we finalized the amendments to subpart OOO in 2009. Because subpart UUU deals with a different industry sector than subpart OOO, we believed that the general public did not have adequate notice of the proposed change, which we thought limited our ability to fully evaluate the issue. We further believed that this issue would most appropriately be addressed through a full review of subpart UUU. When we undertake such a review, we will ensure adequate notice and consideration of this issue.

2: Why is EPA enforcing the provisions of Subpart UUU against foundries when the agency never intended to include foundries as a source category for Subpart UUU?

Answer: The New Source Performance Standards for Calciners and Dryers in the Mineral Industries, commonly referred to as NSPS Subpart UUU, applies to foundries which process industrial sand in calciners and dryers. As early as 1986, the EPA stated in the preamble to the Notice of Proposed Rulemaking that the rule "would apply to new, modified, and reconstructed calciners and dryers at mineral processing plants." In both the proposed and final rules, the EPA defined a mineral processing plant as "any facility that processes or produces any of the following minerals…." In the preamble and final rule, the EPA listed "industrial sand" as one of the listed minerals, and broadly defined the affected facility, "dryer," as "the equipment used to remove uncombined (free) water from mineral material through direct or indirect heating." As a result, where foundries process the listed mineral "industrial sand" they meet the definition of "mineral processing plant" and the "calciners and dryers" that are used by these foundries to process the industrial sand are subject to NSPS Subpart UUU.

Consistent with the regulatory determination, the EPA is currently taking appropriate enforcement action in Region 5 for identified violations of NSPS Subpart UUU at subject foundries. The violations were identified in compliance evaluations conducted by the Region at 39 of the 138 iron and steel foundries. Although a total of eleven enforcement cases resulted from the 39 evaluations, only three of the eleven cases included violations for Subpart UUU. To remedy the currently identified Subpart UUU violations, the three affected facilities have been required to conduct additional testing. No penalties have been assessed for the NSPS Subpart UUU violations.

The Honorable Joe Barton

1: Gina McCarthy recently stated in her written responses to the Senate Environment and Public Works committee, "I can conceive of circumstances where EPA has disagreed with State's approach on policy grounds but did not intervene to override the state because the state met the relevant legal criteria."

a: How do you reconcile her statement with EPA's disapproval of the Texas Commission on Environmental Quality's Flexible Permit Program?

Answer: We do not agree with any suggestion that our disapproval of that program was based on disagreement with the State's policy approach. To the contrary, after carefully considering the State's submission, we concluded that the program did not meet the relevant regulatory and legal

criteria for program approval. Although the Fifth Circuit found that the record we developed in support of the disapproval was inadequate, our disapproval was based on the program's legal deficiencies, not any policy disagreements with Texas.

b: In August, 2012, the Fifth Circuit Court of Appeals vacated EPA's final rule disapproving the Texas Flexible Permit Program, finding that EPA exceeded its statutory authority in rejecting the Texas Flexible Permit Program sixteen years tardy, and had transgressed the Clean Air Act's delineated boundaries of cooperative federalism. What is the status of the remand of EPA's disapproval of the Flexible Permit Program?

Answer: We are currently engaged in discussions with Texas on this matter.

2: Gina McCarthy indicated that she believes EPA's Office of Acquisition Management was involved in the decision to force Battelle to drop their contract with the Association of Air Pollution Control Agencies (AAPCA).

a: Did EPA present an ultimatum to Battelle to terminate their contract with AAPCA? If so, please provide justification for EPA's actions. In doing so, please explain the criteria used and list any contracts between Battelle and EPA that may have been judged to present a conflict of interest.

Answer: Pursuant to the requirements of Federal and Agency Acquisition Regulation, and the terms and conditions of Battelle's contract with the EPA regarding organizational conflicts of interest, Battelle discussed the matter with Agency officials and Battelle independently determined that it needed to terminate its contract with the AAPCA. The EPA neither directed nor suggested that Battelle take that action.

b: What are the larger policy implications of prohibiting a third party contractor from entering into a contract with an environmental, multi-jurisdictional organization for purely administrative and logistical purposes?

Answer: The EPA relies heavily on private sector contractors to support the Agency's mission. The EPA has not prohibited contractors from entering into contracts with multistate organizations. However, because contractors also do work for other entities that the EPA regulates, contractors could be confronted with conflicts of interest that could impair their objectivity when performing work for the EPA and, thus, compromise the integrity of the EPA's mission.

The Honorable Lee Terry

1: Is EPA considering replacing the original impingement proposal with a more flexible approach that pre-approves multiple technology options, allows facility owners to propose alternatives to those options, and provides site-specific relief where there are de minimis impingements or entrainment impacts on fishery resources or costs of additional measures would outweigh benefits?

Answer: The EPA is working to review the comments it received on its 2011 proposed rule and 2012 Notice of Data Availability as it works to develop final standards. The EPA received significant

comments regarding ways in which the impingement mortality standard could be modified to allow site-specific variability to be taken into account, and noted these flexibilities in the June 11, 2012 Notice of Data Availability. The EPA also is considering how a de minimis provision could be added to the rule.

2: EPA's proposed 316(b) rule, EPA has not required existing facilities to retrofit "closed cycle" systems such as cooling towers or cooling ponds if the facilities do not already have such systems, because such retrofits are not generally necessary, feasible, or cost effective. At the same time, facilities that do have closed-cycle systems have long been viewed as satisfying the requirements of section 316(b). Yet in the proposed rule, EPA has defined "closed cycle" cooling much more narrowly for existing facilities than EPA did for new facilities several years ago, thereby excluding a number of facilities. And even for the facilities that qualify, EPA is still imposing new study and impingement requirements. In the final rule that is due this summer, is EPA considering a broader definition of closed-cycle cooling and measures that more fully view these facilities as compliant? In the final rule that is due this summer, is EPA considering a broader definition of closed-cycle cooling and measures that more fully view these facilities as compliant?

Answer: The EPA received significant comments on the proposed definition of closed cycle outlined in the agency's 2011 proposed standards, including comments noting areas in which the agency's 2001 definition differed from its proposed 2011 definition. The EPA intends to address these comments with the final rule.

The Honorable Tim Murphy

1: At last year's budget hearing (Feb. 2012), Administrator Jackson committed to posting notices of intent to sue and rulemaking petitions on the agency's website, and EPA has recently begun to post such notices on its website. You testified at this year's budget hearing that EPA would also begin posting those rulemaking petitions.

a. What are EPA's plans with regard to posting rulemaking petitions?

b. When and where will they be accessible on EPA's website?

c. Will EPA commit to timely updating the website to ensure public access to the rulemaking petitions received by the agency?

Answer: The EPA has made available on its website petitions for rulemaking received by the Agency since January 1, 2013. The petitions for the rulemaking web page are available at http://www2.epa.gov/aboutepa/petitions-rulemaking. Additional petitions will be added on an ongoing basis as they are received or identified.

The Honorable Robert E. Latta

1: In your testimony, you highlight the fact that supporting states' efforts as the primary implementers of environmental programs is an EPA priority. Yet, through the EPA's budget, it is very clear that the federal agency intends to have a direct role in the regulation of hydraulic fracturing, despite proven state programs, including the very successful one in my

state of Ohio under the direction of the Ohio Department of Natural Resources. Do you believe that state regulatory agencies are not capable of effectively regulating hydraulic fracturing?

Answer: The EPA recognizes that many states already have regulations in place to address hydraulic fracturing, more specifically, programs that are designed to protect underground sources of drinking water. With respect to drinking water, the 2005 Energy Policy Act's amendments to the Safe Drinking Water Act (SDWA) established that hydraulic fracturing operations using diesel fuel as a component of fracking fluids are subject to regulation under the federal Underground Injection Control (UIC) program. Under the UIC program, these wells are regulated as "Class II" wells. Based on data in the FracFocus database indicating that only 2% of hydraulic fracturing operations use diesel fuels, the application of these regulations to hydraulic fracturing operations is limited. The UIC regulations are intended to create a national minimum floor for protecting Underground Sources of Drinking Water. Many states with hydraulic fracturing operations have obtained primacy under SDWA to implement the federal program within their borders, including the Class II UIC program. The EPA fully expects that States will continue to be the primary implementer of the UIC program with respect to these wells. We continue to work closely with our State partners to ensure that shale gas resources are responsibly developed.

a: What evidence exists that would justify EPA interference in state regulated hydraulic fracturing operations?

Answer: As mentioned above, SDWA mandates regulation of underground injection, including DFHF operations; however, most States with hydraulic fracturing activities have long been approved to implement their State UIC Class II program in lieu of the EPA. We are closely collaborating with our State partners through the State Review of Oil and Natural Gas Environmental Regulations (STRONGER) and other efforts to ensure responsible development of shale gas resources and we will continue outreach with the states.

b: What is EPA's jurisdictional hook, given the Safe Drinking Water Act's exemption to regulate hydraulic fracturing?

Answer: In the 2005 Energy Policy Act, Congress revised the SDWA definition of "underground injection" to specifically exclude from UIC regulation the "underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities." (SDWA Section 1421(d)(1)(B)(ii)). Through this amendment, Congress excluded many hydraulic fracturing operations from regulation under UIC programs, but it specifically did not extend this exclusion to hydraulic fracturing operations using diesel fuels. By limiting the exclusion in this fashion, Congress made clear that hydraulic fracturing operations using diesel fuels remain subject to regulation under the UIC programs pursuant to the SDWA.

2: As you move forward on greenhouse gas emissions regulations for both new and existing sources, how will you assess the costs?

a. Will you consider the impact these regulations will have on manufacturing jobs in your cost-benefit analysis?

Answer: Since 2009, the EPA has focused increased attention on consideration and, where data and methods permit, analysis of potential employment effects as part of the routine regulatory impact analyses (RIAs) conducted for each major rule. In the RIA for the April 2012 proposed new source performance standards for new power plants, we found that projected new electricity generating units would be in compliance with the proposed standard even in the absence of the regulation. This projection is consistent with a finding of no discernible incremental effects of the proposed regulation on employment. Consistent with our standard practice, we will continue to assess potential employment effects in the context of regulatory impact analyses of our major rules.

b. Will you consider how these regulations will impact energy costs?

Answer: Yes. This analysis is a routine part of the RIA conducted for regulations impacting the energy sector. In the RIA for the April 2012 proposed new source performance standards for new power plants, we found that projected new electricity generating units would be in compliance with the proposed standard even in the absence of the regulation. This projection is consistent with a finding of no discernible incremental effects of the proposed regulation on energy costs. Consistent with our standard practice, we will continue to assess potential energy price impacts in the context of regulatory impact analyses of our major rules.

c. Do you consider hiring an employee to solely work on compliance with regulations as beneficial as hiring an employee to work within normal business operations?

Answer: Compliance activities that result from air pollution regulations address a consequence of normal business operations, and are in fact producing a real output: cleaner air and improved health. Jobs, including those in the private sector, that support the implementation of and compliance with air quality regulations contribute to the positive impact clean air programs have on the health and welfare of Americans and also on the U.S. economy by reducing the number of work days lost to air pollution-related health effects across the economy, with resulting improvements in the productivity of American workers that enhance the global competitiveness of American workers and the firms that employ them. In a March 2011 report that studied the 1990 Clean Air Act amendments and the effects of associated programs on the economy, public health, and the environment between 1990 and 2020, the EPA estimated that the benefits of these clean air programs will exceed costs by a factor of more than 30 to one in 2020.

3: Does EPA keep track of compliance costs once a rule is implemented? If not, please explain why.

Answer: The EPA conducts benefit-cost analyses of all its significant rules and regulations and strives to use the best available information to conduct its analyses. To evaluate the uncertainties related to compliance cost estimates, the EPA's National Center for Environmental Economics (NCEE) is conducting a retrospective cost study (RCS), examining selected rules as case-studies. The RCS is attempting to identify reasons for any systematic differences between the Agency's compliance cost estimates used in regulatory impact analyses (RIAs) and estimates of the realized compliance costs. The long-term goal of this project is to increase the accuracy of the EPA's compliance costs estimates, which in turn will help improve the Agency's benefit-cost analyses.

Detailed tracking of the EPA-related compliance costs for every rule would require a detailed survey of regulated entities of their investments in pollution abatement equipment and pollution

abatement operating costs. Supplying this type of cost data can be seen as burdensome by the regulated firms as it requires them to isolate the incremental cost of the regulation and to fill out associated paperwork. Furthermore, firms usually consider this type of information confidential business information.

As one example of the challenges in collecting post-compliance costs, the EPA conducted a FY 2011 survey of the pulp and paper industry to collect information on what technologies were put in place to comply with Clean Air Act regulations (one New Source Performance Standards rule and two National Emission Standards for Hazardous Air Pollutants rules), including compliance costs. To reduce potential burden, the compliance costs portion of the survey was made voluntary. While 350 facilities responded to the information collection request (a 100% response rate), only one plant voluntarily responded with any compliance cost information.

4: How much did covered entities spend complying with EPA regulations last year?

Answer: The Agency does not routinely track costs of compliance post-rule promulgation. Therefore, no data are available to address cost of compliance with the EPA's regulations in 2012. As discussed in the response to the previous question, the Agency is conducting a retrospective cost analyses and will make available any data that is responsive to your question when it is completed.

For reference, the EPA's National Center on Environmental Economics (NCEE) completed and submitted "A Retrospective Cost Study of the Costs of EPA Regulations: An Interim Report of Five Case Studies" to its Science Advisory Board's (SAB) Environmental Economics Advisory Committee for review in March 2012. The primary purpose of the Interim report was to demonstrate the weight of evidence methodology using a case study approach developed for examining costs retrospectively.

The full text of the Interim report is available here:
http://yosemite.epa.gov/sab/sabproduct.nsf/02ad90b136fc21ef85256eba00436459/3A2CA322F56386FA852577BD0068C654/$File/Retrospective+Cost+Study+3-30-12.pdf

The full text of the SAB Advisory Report, in response to the Interim report, is available here:
http://yosemite.epa.gov/sab/sabproduct.nsf/02ad90b136fc21ef85256eba00436459/2596DA311EE5DBF385257B4A00691B3C/$File/EPA-SAB-13-002-unsigned.pdf

NCEE is preparing a final report anticipated for release later this year, and has begun retrospective analyses on additional rules. Case studies from this next phase will be distributed as they are completed.

5: Many Ohio producers are taking an active role in mitigating nutrient run-off by voluntarily enrolling in the "4R Nutrient Stewardship" program which stands for using the right fertilizer source, at the right rate, at the right time, and with the right placement. Ohio's leading industry representatives have developed this working closely with state agencies.

a: Will the agency defer to voluntary, industry-led programs or will the agency issue formal regulations regarding nutrient management?

Answer: The EPA does not anticipate developing new regulations regarding nutrient management at this time, and will continue to implement existing programs and to emphasize voluntary program approaches and close collaboration with agricultural producers, states, the U.S. Department of Agriculture (USDA), and other partners to encourage effective nutrient management practices to protect water quality.

Through the Clean Water Act Section 319 Nonpoint Source Program, the EPA works with states as they implement nonpoint source programs. Good nutrient management is a key priority of this program and we recognize the importance of 4R's for successful nutrient management planning. Many Section 319 success stories show that water quality improvement can be tied to good nutrient management and by coordinating with other entities to collectively gain improvements in water quality. Many of these success stories report engagement and coordination with USDA's Natural Resources Conservation Service (NRCS) at the local level, who can in turn work with landowners as they voluntarily implement the 4R's on their cropland. The EPA supports the USDA-NRCS Practice Standard Conservation Code 590 for Nutrient Management as the baseline for nutrient management nationally. This conservation practice standard is based upon the 4R Nutrient Stewardship principles of the right fertilizer source, at the right rate, at the right time, and with the right placement. Industry has been a leader in talking to the agricultural community about the importance of the 4Rs of nutrient management. The EPA is aware of industry efforts, such as the "Keep it for the Crop (KIC)" effort in Illinois, which continue to share the message of the 4R's with producers and stakeholders. The EPA also understands the importance of educational training on the 4R's for producers through the NRCS 590 Nutrient Management Standard/4R Nutrient Stewardship Educational Module in development by TFI, NRCS, Iowa State University, and the International Plant Nutrition Institute (IPNI). This effort will educate producers, as well as NRCS employees, fertilizer retailers, and service providers (see http://www.nutrientstewardship.com/4r-training).

b: Have you engaged stakeholders regarding this issue? If so, please provide a list of EPA stakeholder outreach efforts.

Answer: Yes, the agency continues to actively engage stakeholders regarding nutrient management efforts. Many of these efforts are guided by the EPA's March 2011 memorandum to its Regional offices in which the agency reaffirmed its commitment to partnering with states and collaborating with stakeholders to make greater progress in accelerating the reduction of nitrogen and phosphorus loadings to our nation's waters. Examples of stakeholder outreach efforts include:

- Through the EPA Regions, the EPA is coordinating with and supporting states as they develop and implement nutrient reduction strategies, which generally include managing nutrients in the agricultural landscape. The EPA is the co-chair of the Hypoxia Task Force (HTF) and supports HTF member outreach efforts on the 4R's of nutrient management. The EPA is working with USDA-NRCS as they implement the Mississippi River Basin Initiative (MRBI), the Gulf of Mexico Initiative (GoMI), and the National Water Quality Initiative (NWQI). Nutrient managment is a core component of the conservation systems that these programs support.

The Honorable Bill Cassidy

1: Recently, you stated that EPA is embracing the spirit as well as the letter of the NAS recommendations to improve the IRIS program. Yet, the recently revised IRIS methanol assessment, which was released last week, EPA categorizes 15 of 19 'short-term' recommendations as being only partially implemented and only 4 short-term recommendations are listed as implemented. EPAs description for implementing the more substantive recommendations, suggests progress that is minimal at best. What can EPA show to provide true evidence that substantive changes are being made?

Answer: The National Academies' National Research Council (NRC) noted in the "Roadmap for Revision" in their formaldehyde review report that the recommendations they were making about improving the development of IRIS assessments "would involve a multi-year process and extensive effort." Over the past two years, the EPA has been working hard to incorporate the NRC recommendations. As stated in the EPA's 2012 IRIS Progress Report to Congress, the IRIS Program is following the NRC advice and incorporating its recommendations using a phased approach. At this point, all draft IRIS assessments that are released will reflect significant improvements to the document structure which increase transparency in presentation of methods and explanation of the rationale and decision criteria for selecting data and making scientific conclusions. Each newly released draft or final IRIS assessment now includes a summary table of the NRC recommendations and the EPA's actions to implement them. The revised draft methanol assessment (released to the public in May 2013), for example, was shorter, more concise, and visual – providing tables and graphs of data – and implements the transparency changes cited above. Full and robust implementation of the NRC recommendations by the IRIS Program will continue as an evolving process with input and feedback from the public, stakeholders, the NRC committee that is currently reviewing the IRIS assessment development process, and the newly formed Science Advisory Board (SAB) Chemical Assessment Advisory Committee (CAAC).

As further evidence of the EPA's improvements to the IRIS Program and IRIS assessments, the EPA held a public IRIS Stakeholder Meeting (in person and by webinar) on November 13, 2012. The purpose of the meeting was to hear public views on the IRIS Program. More than 450 people participated and provided input. The IRIS Program also recently convened a public stakeholder meeting to receive input on the IRIS assessment of inorganic arsenic, which the EPA is in the early stages of drafting. Based on input received at this meeting, the EPA expanded the scope of the assessment to include both the oral and inhalation routes of exposure.

Additionally, in early 2013, the EPA provided materials to the NRC committee charged with reviewing the IRIS assessment development process. These materials, titled "Part 1: Status of implementation of recommendations" and "Part 2: Chemical-Specific Examples," provide an update on the EPA's progress in addressing the NRC recommendations related to IRIS. The documents are publicly available at http://epa.gov/iris/iris-nrc.htm. More recently, the SAB CAAC held their first public meeting in April 2013. At this meeting, they were briefed on the IRIS Program, including changes being made to address the NRC recommendations. The SAB CAAC will begin reviewing draft IRIS assessments later this year.

The IRIS Program also will convene workshops on various scientific issues later this year. Some of these workshops are relevant to the NRC recommendations. For example, a fall workshop will focus on systematic review. This meeting will be open to the public and will include discussions about

approaches for and steps taken in conducting systematic review, such as evaluating individual studies, approaches for synthesizing evidence within a particular discipline, and integrating evidence across different disciplines to draw scientific conclusions and causality determinations.

Overall, the activities described above provide true evidence of the IRIS Program's efforts to implement the NRC recommendations.

2: How long will it be before released IRIS assessments have fully, not partially, implemented the important NAS recommendations?

Answer: As noted in the 2012 IRIS Progress Report to Congress, the National Academies' National Research Council (NRC) recognized that fully implementing all of their recommendations would *"involve a multi-year process and extensive effort."* All draft IRIS assessments that are released will reflect significant improvements to the document structure to improve transparency. The methods, rationale, and decision criteria for selecting data and making scientific conclusions are transparent and clearly presented. The revised draft methanol assessment, for example, is shorter, more concise, and visual – providing tables and graphs of data – and implements the transparency changes cited above. In 2013, the EPA anticipates releasing draft IRIS assessments that have fully implemented all of the short-term NRC recommendations. Full and robust implementation of all of the NRC recommendations by the IRIS Program will continue as an evolving process with input and feedback from the public, stakeholders, the NRC committee that is currently reviewing the IRIS assessment development process, and the newly formed Science Advisory Board (SAB) Chemical Assessment Advisory Committee (CAAC).

In early 2013, the EPA provided materials to the NRC committee charged with reviewing the IRIS assessment development process. These materials, titled "Part 1: Status of implementation of recommendations" and "Part 2: Chemical-Specific Examples," provide an update on the EPA's progress in addressing the NRC recommendations related to IRIS. These documents are publicly available at http://epa.gov/iris/iris-nrc.htm. The newly formed SAB CAAC held their first public meeting in April 2013. At this meeting, they were briefed on the IRIS Program, including changes being made in the Program to address the NRC recommendations. This committee will begin reviewing draft IRIS assessments later this year. Additionally, the IRIS Program will convene workshops on various scientific issues later this year. Some of these workshops are relevant to the NRC recommendations. For example, a fall 2013 workshop will focus on systematic review. This meeting will be open to the public and will include discussions about approaches for and steps taken in conducting systematic review, such as evaluating individual studies, approaches for synthesizing evidence within a particular discipline, and integrating evidence across different disciplines to draw scientific conclusions and causality determinations.

3: How many more assessments will be released that are not consistent with the NAS recommendations?

Answer: Over the past two years, the EPA has been working hard to incorporate the NRC recommendations related to the development of IRIS assessments. The National Academies' National Research Council (NRC) noted in the "Roadmap for Revision" in their formaldehyde review report, that the recommendations they were making about improving the development of IRIS assessments "would involve a multi-year process and extensive effort." As stated in the EPA's 2012 IRIS Progress Report to Congress, the IRIS Program is following the NRC advice and incorporating

their recommendations using a phased approach. At this point, all draft assessments that are released will reflect significant improvements to the document structure. Specifically, they will include increased transparency in presentation of methods and explanation of the rationale and decision criteria for selecting data and making scientific conclusions. Each newly released draft or final IRIS assessment now includes a summary table of the NRC recommendations and the EPA's actions to implement them. A few assessments that were undergoing peer review at the time of the NRC recommendations will retain some earlier formatting aspects, in order to maintain fidelity with the assessment that was peer reviewed, but these assessments also demonstrate the above significant improvements by transparently describing the basis for assessment conclusions. The revised draft methanol assessment, for example, is shorter, more concise, and visual – providing tables and graphs of data – and implements the transparency changes cited above. The draft IRIS assessment for benzo(a)pyrene, which will be released for public comment and external peer review in the coming months, represents Phase 2 of our implementing the NRC recommendations by fully addressing all of the NRC's short-term recommendations. Full and robust implementation by the IRIS Program will continue as an evolving process with input and feedback from the public, stakeholders, the NRC committee reviewing the IRIS assessment development process, and the newly formed Science Advisory Board Chemical Assessment Advisory Committee (CAAC).

A full description of the IRIS Program's progress in addressing the NRC recommendations can be found in documents the EPA provided to the NRC earlier in 2013. These materials, titled "Part 1: Status of implementation of recommendations" and "Part 2: Chemical-Specific Examples," provide an update on the EPA's progress in addressing the NRC recommendations related to IRIS. They are publicly available at http://epa.gov/iris/iris-nrc.htm.

The Honorable Cory Gardner

1: Do you believe the Colorado Regional Haze State Implementation Plan (SIP) serves as a model for how states and the federal government should collaborate to reduce regional haze in the West? If so, will EPA be working with the Department of Justice to vigorously defend Colorado's Regional Haze SIP in the 10th Circuit?

Answer: The State of Colorado and the EPA did indeed work together closely while Colorado developed its Regional Haze plan, and the plan contains many beneficial provisions that should help reduce regional haze in Colorado's many national parks and wilderness areas. While the EPA acknowledges that Colorado's approach was a novel and comprehensive strategy for addressing regional haze requirements and other air quality goals, the EPA did express some concerns in its approval of the Colorado plan with the cost and visibility analyses that were conducted for the units at the Tri-State Craig facility. In regards to the litigation on our approval of Colorado's plan, we are currently engaged in confidential settlement discussions under the auspices of the 10th Circuit mediator, and, therefore, we cannot comment further at this time.

The Honorable Mike Pompeo

1: Recently, the EPA has undertaken a wide-ranging review of the retailers that offer Lead Renovation, Repair and Painting (LRRP) installation services rather than the contractors on the jobsite, performing the work. The Agency reportedly has asserted that the retailers themselves are responsible for all aspects of compliance with the LRRP Rule - even though

the renovation work is actually performed by the independent, third-party contractors and not by the retailers themselves. What are your thoughts on the expansion of the LRRP rule to include a retailer?

Answer: In 2008, the EPA promulgated the Lead, Renovation, Repair, and Painting Rule. The RRP Rule prohibits firms from performing, offering, or claiming to perform renovations for compensation in target housing and child-occupied facilities unless they first become an EPA-certified renovation firm (See 40 CFR 745.81.(a)(2)(ii)).

The requirement for firm certification includes not only firms that "perform," but also those that "offer" or "claim to perform renovations" (see above). The EPA understands that many home improvement retail companies enter into contracts with consumers to perform renovations. These contracts constitute offers to perform specific renovations for compensation and, when the consumer signs the contract, the company becomes obligated to perform on the contract. Whether the home improvement retail company intends to perform the renovation using its own employees or contracts the work out to another firm or independent installer, the company is obligated to become a certified renovation firm before entering into such contracts.

EPA-certified renovation firms have certain responsibilities specified at 40 CFR 745.89(d), including, but not limited to, a responsibility to ensure that the recordkeeping requirements of 40 CFR 745.86 are met. Per 40 CFR 745.86, the firm must retain, and if requested, make available to the EPA all records necessary to demonstrate compliance with the RRP Rule. The EPA has developed a sample one-page recordkeeping checklist to assist firms in complying with these requirements.

2: Shouldn't the goal of the LRRP rule be to reduce lead based hazards during a renovation project? If so, why is the agency more focused on bureaucratic, administrative errors in the paperwork submitted to a retailer by the independent subcontractors rather than focusing on actual performance and compliance with the rule by the subcontractor onsite in the actual workplace?

Answer: Section 402 of the Toxic Substances Control Act provides that the goal of the EPA's Lead-Based Paint Renovation, Repair and Painting Rule is "to ensure that individuals engaged in ... [lead-based paint] activities are properly trained; that training programs are accredited; and that contractors engaged in such activities are certified." (Section 402 of the Toxic Substances Control Act, 15 U.S.C. 2682). Common renovation, repair, and painting activities that disturb lead-based paint (like sanding, cutting, replacing windows, and more) can create hazardous lead dust and chips which can be harmful to adults and children. But with careful work practices and thorough clean-up, renovations can be done safely. The EPA's Lead Renovation, Repair and Painting Rule (RRP Rule) requires that firms performing renovation, repair, and painting projects that disturb lead-based paint in homes, child care facilities and pre-schools built before 1978 be certified by the EPA and use certified renovators who are trained by EPA-approved training providers to follow lead-safe work practices. The agency protects the public from exposure to lead by requiring compliance with all aspects of the RRP regulations – training and certification in lead safe work practices, compliance with those work practices on site, as well as maintaining adequate documentation that those work practices were followed.

The Honorable Bill Johnson

1: The Environmental Protection Agency headquarters in Washington, D.C. maintains an open door with manufacturing companies in the United States. However, companies often encounter less transparency and accessibility with the agency at the research level regarding data. What steps will the Agency take to rectify this problem?

Answer: The EPA's research provides much of the foundation for Agency decision-making and the basis for understanding and preparing to address environmental needs and issues. The manufacturing sector is important for the EPA and in recent years, the Agency has expanded its analysis of sector-based options to address complex issues like non-point source pollution from food and livestock production, and to continue work in the agri-business sector that focuses on the major corporate entities that have an enormous effect on environmental management decisions related to food production.

All research and development resources in the EPA continually inform Agency decisions, solve current real-time environmental problems on the ground, or design tools and approaches to be applied to emerging issues. The EPA's research program functions in close partnership with the EPA Program and Regional offices, highlighted by ongoing interaction anticipating the Agency's policy-level decision-making needs, and also emphasizing practical, timely, relevant, and rigorous peer-reviewed findings. The EPA's research methodology, tools, models and databases are publicly available and easily accessible on the EPA's website. Additionally, the EPA provides a wide variety of guidance, presentations, and other assistance to the regulated community and continues to respond to requests for information as they are received.

Further, the EPA has established, and continues to promote, a commitment to scientific integrity. When dealing with science, it is the responsibility of every EPA employee to conduct, utilize, and communicate science with honesty, integrity, and transparency, both within and outside the Agency. As part of this commitment, the EPA is developing a draft implementation plan to support increased public access to the results of research funded by the Agency. This is in response to the February 22, 2013 Office of Science and Technology Policy (OSTP) memorandum requiring that the results of federally funded scientific research be made available to and useful for the public, industry, and the scientific community. As directed by OSTP this draft implementation plan will be submitted by August 22, 2013 and will be will be finalized after OSTP has reviewed the draft and provided comments back to the EPA.

2: On multiple occasions the EPA has stated the important value of manufacturing companies in the United States to improving job growth and the environment. Yet many manufacturing companies face serious challenges with regulations by the Environmental Protection Agency, which effectively force manufacturing to relocate outside the United States. What will the Agency do to improve cooperation between the Environmental Protection Agency and these companies?

Answer: The EPA strives to have collaborative working relationships with all stakeholders in the regulatory process. Working closely with the regulated community can lead to better programs that are more effective and efficient. To that end, continuously improving relations with members of the regulated community has been a long-standing goal of the Agency. Just a few of the general means available to the agency for improving cooperation with the regulated community on regulations

include the notice and comment process of the Administrative Procedure Act, the Small Business Regulatory Enforcement Fairness Act, and the use of public meetings related to regulations under development. In addition, like other Federal agencies, the EPA publishes a Semiannual Regulatory Agenda and an annual Regulatory Plan. These documents describe regulations currently under development or recently completed.

Over the years, the EPA has used both formal and informal processes for engaging stakeholders. For example, soon after the 1990 Clean Air Act amendments, formal regulatory negotiations produced agreements on proposed rules to prevent toxic emissions from equipment leaks, set requirements for cleaner "reformulated" and "oxygenated" gasolines, and cut toxic emissions from steel industry coke ovens. Informal talks and consultation with advisory committees produced agreement on rules that control acid rain and phase out chlorofluorocarbons, which deplete the stratospheric ozone layer.

A recent example where the EPA's extensive stakeholder outreach led to successful rulemaking process is the EPA and the Department of Transportation's National Highway Traffic Safety Administration's (NHTSA) joint rulemaking to develop the first National Program of harmonized standards to reduce greenhouse gas (GHG) emissions and improve fuel economy from cars and light trucks. These standards, broadly supported by stakeholders, will result in significant GHG reductions and oil savings and save consumers money at the pump. In developing the rule, the EPA met extensively with a wide range of stakeholders, including automakers, automotive suppliers, labor unions, consumer groups, environmental interest groups, state and local governments, and national security experts and veterans. The input from stakeholders was invaluable in ensuring that the EPA had the most comprehensive set of data and other information possible to inform the proposals.

Another recent example of a successful rule resulting from the EPA's stakeholder outreach includes the GHG Reporting Rule. The EPA met individually with a diverse range of stakeholders to seek their input, including members of the power industry and related trade associations, vendors of air pollution control and monitoring technology, engineering firms, and regional transmission operators that distribute electric power. These discussions helped shape key provisions to minimize compliance burden and protect electricity reliability while meeting emission standards. For the GHG Reporting Rule, the EPA actively sought input from stakeholders through holding technical meetings. To date, the GHG Reporting Program has held nearly 500 outreach meetings, webinars, and public hearings. Based on stakeholder input, the EPA provided extensive website postings for every action taken and efforts to highlight public comment periods for rules, information collection requests, and other Federal Register notices. The EPA also made the electronic GHG reporting system available to the reporting community prior to finalizing and launching the software, resulting in over a thousand stakeholders providing valuable feedback. This feedback allowed the agency to tailor reporting requirements to make it easier for businesses to comply, thus saving time and money.

The EPA views cooperation between the agency and companies to be a very important aspect of our work, and we plan to continue use of the processes we have in place to ensure engagement with stakeholders in future regulatory actions.

3: The Environmental Protection Agency is criticized for employing data in various programs that is outdated, if that data is at all revealed to the public or businesses. What measures will the Agency take to correct the use of inaccurate, outdated data in regulatory compliance?

Answer: Three internal processes the Agency uses to ensure that data and information used to support its decisions represent the best available science and meet specific quality standards are:

1. EPA Quality Program - epa.gov/quality,
2. Information Quality Guidelines - epa.gov/quality/informationguidelines and
3. Action Development Process

The EPA Quality Program requires the development of environmental data quality criteria, Quality Assurance documentation, and robust data quality reviews to ensure data are appropriate for its intended use. The Information Quality Guidelines establish an internal Agency review of information, which may include peer review, before it is disseminated to the public. The Action Development Process provides a comprehensive framework to ensure the use of quality information to support Agency actions and an open process.

When the EPA issues a notice of proposed rulemaking supported by studies and other information described in the proposal or included in the rulemaking docket, the open public comment period gives the public or business an opportunity to provide feedback to the agency about the quality of the data and information being used to support a regulatory action. The Agency uses the public comment period and the subsequent development of a response to comments document as a process to correct inaccurate and outdated data. The EPA believes that the open public comment process allows the Agency to correct any data or information that is inappropriate for a given regulatory action.

The EPA provides compliance and enforcement data on the Enforcement and Compliance History Online (ECHO) website (http://www.epa-echo.gov). The data shown within ECHO are drawn from national enforcement and compliance databases. Each national data system that feeds ECHO has data integrity procedures (built into system software and training for data entry specialists), including a set of data stewards within the EPA and the states that are responsible for ensuring high-quality information is provided. To further ensure the integrity of the data, the EPA has a yearly "Data Verification" process with the states to ensure that the right information is going into the data systems. ECHO also provides users with the opportunity to challenge the veracity of the data through an online Agency error notification process. Under this process, data users can pinpoint information that may need review. The EPA and state data stewards then use this information to determine whether data fixes are needed – then communicate the resolution to the EPA. Users that are not satisfied with the decision of the data steward are also offered appeal options, as specified under the Data Quality Act. ECHO also maintains a system of "Data Alerts" and caveats shown in ECHO that are primarily dedicated to explaining specific data flows that are problematic (e.g., situations when the states are not able to properly submit data).

The aforementioned processes are measures the Agency will continue to employ to ensure the use of accurate and timely data for its environmental decisions and regulatory compliance.

4: I recognize that there are times when spending additional money on a specific regulation is required in order to develop a proper rule. For example, the EPA is currently in the process of developing a MACT standard for the brick industry to replace the MACT that was vacated by the courts in 2007. Since this industry was in full compliance with the original Brick MACT before it was vacated, much of the emission reduction from the larger sources has already been achieved as most of those controls remain in place. In fact, EPA is using data from those

sources who installed controls in good faith to force even more stringent controls on this vital industry. How is the Agency effectively using resources to develop a rule that acknowledges the emissions reductions already attained and to not blindly follow the "one size fits all" approach used in recent MACTs?

Answer: We are aware of the issues noted above for this rulemaking. We are using technical information developed in recent rulemakings (such as boilers and Portland cement) in order to efficiently use our resources in this effort. As we develop the proposed rule, we are considering the fact that some sources have already installed control devices, and we are investigating the extent to which a standard, consistent with the statutory requirements, may be fulfilled leaving the already-installed control devices in place. However, we are legally required to consider the current emissions levels for sources in the industry in setting regulations, including, for the Brick MACT, sources in that category with high-performing control devices. The statutorily mandated process results in emissions limits that apply to all sources in the category and may require some sources to achieve additional reductions.

5: For example, the Clean Air Act has a different path that is allowed in situations like this. This path, using a combination of health-based standards for threshold pollutants and work practices for pollutants where it is impracticable to measure and control, could both protect the environment and ensure an important industry is not needlessly threatened. Will EPA commit to fully explore this alternative path?

Answer: We have already begun looking at the regulatory flexibilities available to us under the law. This includes health-based standards and work practices for certain pollutants and/or sources.

6: The rulemakings for the Brick industry have been impacted by the EPA's "sue and settle" approach to dealing with third-party lawsuits on both rounds. The now-vacated MACT was rushed in 2003 due to a pending lawsuit from an environmental group, resulting in a rule that was vacated by the courts for its deficiencies. Now this industry is facing another court-ordered schedule based on a consent decree that you recently accepted. What assurances can the Agency give me and this industry that the schedule will not be used as justification for yet another rushed deficient rule? And what can the Agency do to ensure that this rulemaking will include a full consideration of the alternative approach of using a combination of health-based and work practice standards to ensure that the requirements of the CAA are followed and the environment protected without requiring huge burdens on a critical industry that provide limited to no environmental benefit?

Answer: We have renegotiated the consent decree deadline for the proposed rule, extending it from August 2013 to February 2014. This change addressed concerns raised by small businesses as part of the SBREFA process. We believe this additional time will allow us to fully consider the alternative approaches discussed above and develop a rule that is fully consistent with statutory requirements. Based on our experience, we believe that negotiated settlements, as opposed to continued litigation, in the long run provide more reasonable schedules and more certainty.

7: I recognize that EPA is being asked to do more with less; however, so is industry. The brick industry is relatively small, with more limited resources than some of the source categories that you have recently regulated. What is the Agency doing to ensure that this small industry is not disadvantaged simply because it does not have the financial resources to fund research

projects to support the rulemaking process? Please explain in detail how EPA ensures that smaller industries have the same access to a fair and reasonable rule as larger industries.

Answer: The EPA is sensitive to the financial issues of the brick industry. For example, when we requested emission testing, we tried to restrict the testing requirements to the minimum required for the rulemaking process. We have reached out directly to control equipment vendors to obtain data, rather than asking the industry to do so, and we have leveraged information from other rulemakings involving similar industries to minimize the need for research specific to the brick industry and hence lighten the burden. As part of the rulemaking process, we also consider regulatory impacts of the proposed rule. This requires that we investigate different approaches that industry could use to meet the proposed emission limits. We will undertake this process with the same thoroughness for the brick industry as we do for larger industries, and we will have developed the same level of information at the end of this process. In addition, the SBREFA process, discussed above, will provide the brick industry an additional opportunity to discuss specific issues of concern to small businesses.

8: Is the EPA maintaining and saving all forms of mobile communication of political appointees? This includes text messages, blackberry messages, iPhone messages, etc.

Answer: Because of transitory nature and limited size of communications such as text messages (on any brand of mobile device), it is unlikely that these messages will constitute records subject to a preservation under the Federal Records Act. However, should an employee identify a particular text message that constitutes a Federal Record, the EPA would work with that employee to properly preserve the text message.

9: If you are saving all of these messages are you working to turn over messages that are in the scope of FOIA to parties that have requested them?

Answer: In responding to a Freedom of Information Act (FOIA) request, the EPA searches for all records that are responsive to that FOIA request. If during the search for responsive records, text messages are identified, and then the EPA would process these records along with all other responsive records to the FOIA request.

The Honorable John D. Dingell

1: I recently joined with my colleagues from the Great Lakes region in signing a letter to the Appropriations Committee requesting $300 million for the Great Lakes Restoration Initiative. I know the Administration requested that level of funding as well. However, I have concerns about what EPA is doing to address water quality in the Great Lakes. On March 15, 2013, I sent you a letter referencing an article in the New York Times which noted that in the 1960s Lake Erie was nicknamed "North America's Dead Sea." I have worked long and hard to pass legislation and funding to protect and preserve the Great Lakes.

a: Given current and requested funding levels, does EPA have the resources to combat massive algae blooms such as the one on Lake Erie?

Answer: It will take a coordinated, multi-year approach to address the problem of massive algae blooms such as the one on Lake Erie. Several agencies, particularly the EPA, U.S. Department of

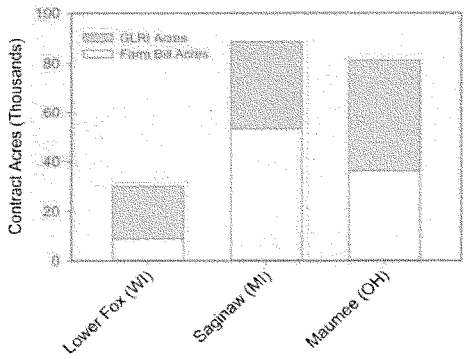
Agriculture's Natural Resource Conservation Service (NRCS), U.S. Army Corps of Engineers, National Oceanic and Atmospheric Administration, and U.S. Geological Survey, are targeting some of their GLRI and non-GLRI funding for that purpose. In light of the nation's current fiscal condition and budget constraints, we believe the current and requested funding levels are appropriate. Because phosphorus has built up in soil over many years and takes time to process through watersheds, these and other management actions will likewise take time to show results downstream.

b: Could you please submit for the record additional information on efforts EPA is taking to address this issue?

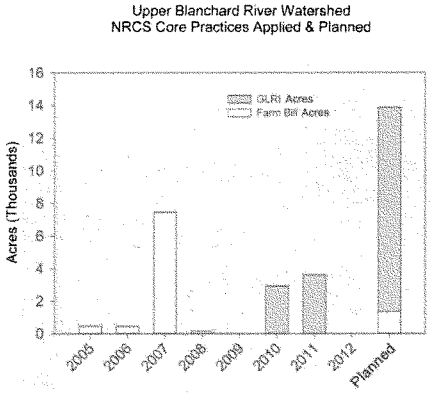
Answer: The EPA is coordinating efforts by GLRI agencies, such as NRCS, to direct resources and activities at the most significant cause of this problem – nutrient runoff from agricultural lands. In 2011, the Great Lakes Interagency Task Force (IATF) directed its Regional Working Group (RWG) to prioritize GLRI efforts to address nutrient runoff in key Great Lakes watersheds. The Maumee River watershed, which is located in Ohio, Michigan, and Indiana and which flows into western Lake Erie, is one of three targeted Great Lakes watersheds.

The EPA has given GLRI funding to NRCS to provide farmers with financial and technical resources to implement science-based conservation systems that will control soil erosion and reduce nutrient loss. So far, over 260 GLRI-funded nutrient reduction projects and assistance agreements with farmers are underway in the Maumee River watershed. These conservation systems allow farmers to tailor fertilizer inputs to crop needs, improve the health of their soil, and sustainably produce food for the nation. These projects in the Maumee River watershed, together with USDA projects funded outside of GLRI, put over 80,000 acres under contract (see chart below), will reduce sediment and nutrients entering Lake Erie, and will reduce human health risks and ecosystem degradation posed by harmful algal blooms and other nuisance algal growth.

USDA Conservation Practices – Contracted Acres (FY 2010-FY 2012) as of Oct. 1, 2012



Within targeted watersheds, the agencies are now focusing on subwatersheds that are most likely to yield results, implementing targeted actions to achieve them, and monitoring the resulting phosphorus reductions. Applied and planned practices funded by GLRI are expected to cover approximately 7 percent of cropland in the Upper Blanchard River sub-watershed of the Maumee River. (See chart below.)



Since 2011, the EPA also has used GLRI resources in conjunction with other federal agencies to advance the science necessary to better understand the effectiveness of actions taken to reduce the amount of nutrients entering Lake Erie. These activities include:

- installing equipment to measure reductions in phosphorus and sediments;
- mapping algae blooms via satellite;
- increasing the technical expertise of agricultural professionals working in the Maumee watershed with respect to nutrient management plans;
- developing TMDLs in the upper Maumee watershed;
- improving agricultural drainage management in the western Lake Erie basin; and
- evaluating discharges of nutrients into Lake Erie from point sources.

In addition to the GLRI, the EPA administers other programs that can be used to address nutrient reduction in the Lake Erie Basin, such as the Section 319 Program. Section 319 of the Clean Water Act (CWA) established a national program to address nonpoint sources of water pollution. Section 319(h) specifically authorizes the EPA to award grants to states with approved Nonpoint Source Assessment Reports and Nonpoint Source Management Programs. The funds are used to implement programs and projects designed to reduce nonpoint source pollution, such as implementation of Nine Element Watershed Plans and Total Maximum Daily Loads (TMDLs).

Additionally, the EPA's National Pollutant Discharge Elimination System (NPDES) permit program controls water pollution by regulating point sources that discharge pollutants, including nutrients, into Lake Erie and its tributaries.

2: What is EPA doing to enforce the cost of cleanups and emergency cleanups? What is EPA doing to hold property owners responsible for the costs related to cleanups?

Answer: The EPA is committed to an "enforcement-first" approach that maximizes the participation of liable and viable parties in performing and paying for Superfund cleanups. The EPA conducts rigorous searches to find Potentially Responsible Parties (PRPs) at hazardous waste sites. There are four classes of Superfund liable parties: current owners and operators of a facility; past owners and operators of a facility at the time hazardous wastes were disposed; generators and parties that arranged for the disposal or transport of the hazardous substances; and, transporters of hazardous waste who selected the disposal site.

Once identified, the EPA, in coordination with the Department of Justice, negotiates cleanup agreements with the PRPs and, where negotiations fail, takes enforcement actions to require cleanup or expends Superfund appropriated dollars to remediate the sites, sometimes in combination. The agency will then seek recovery of those appropriated dollars that have been expended. Since the inception of the program, the cumulative value of private party commitments for cleanup is over $37 billion ($31.2 billion for cleanup work and $6 billion in cost recovery).

More information about the EPA's Superfund Enforcement program may be found at: http://www.epa.gov/compliance/cleanup/superfund/index.html

a: Is EPA going to continue to hold these existing steps to the highest level of importance?

Answer: Yes, consistent with funding levels the EPA will continue to ensure PRP participation in cleanups while promoting fairness in the enforcement process and will continue to recover costs from PRPs when appropriated dollars are expended.

The Honorable Frank Pallone, Jr.

1: On January 14th of this year, I, along with several of my colleagues in the House of Representatives, wrote to the Office of Management and Budget regarding the RICE NESHAPS rule. Specifically, we expressed concern with effectively allowing basically unregulated diesel generators to get paid to run as so-called "demand response." Senator Lautenberg and others have also written on this issue and it was raised by Chairman Whitfield at a hearing last week in the Energy and Power Subcommittee.

While the decision to allow these diesel-fueled backup generators to participate in the electricity market was FERC's, it was EPA's decision not to hold these units to the same environmental standards as others bidding into the market, even though these dirty diesel units are displacing cleaner sources of generation, including solar and wind. Perhaps that's why the concern over this decision has been raised by a diverse set of concerned stakeholders including environmental groups, New Jersey and other states, and power companies. This very diverse set of stakeholders coming together on the same side has now taken the rule to court to petition the EPA for reconsideration. Given the concerns raised by this unique coalition of stakeholders and members, does EPA plan to reconsider the RICE NESHAPS rule?

Answer: We are currently evaluating all of the petitions for reconsideration that we received for the RICE NESHAP. On June 28, 2013, then Assistant Administrator Gina McCarthy sent a letter to the Delaware Department of Justice stating that the Agency intends to initiate a reconsideration process for the RICE NESHAP on the following issues:

- Timing for compliance with ultra low sulfur diesel fuel requirement for emergency compression ignition engines that operate or are contractually obligated to be available for more than 15 hours per calendar year.
- Timing and the required information for the reporting requirement for emergency engines that operate or are contractually obligated to be available for more than 15 hours per calendar year.
- Conditions in 40 CFR § 63.6640 (f)(4)(ii) for operation for up to 50 hours per year in non-emergency situations as part of a financial arrangement with another entity.

We are continuing to review the other issues in the petitions. We value the input you have provided and will consider it as our evaluation proceeds.

The Honorable Diana DeGette

1: Is it known for certain whether or not shale gas development through hydraulic fracturing poses an increased risk to human health and the environment over the risks associated with conventional oil and gas development?

Answer: This is an important question that the EPA's Drinking Water Study and the Tri-Agency work seek to inform.

2: Is it known for certain whether or not shale gas development through hydraulic fracturing poses no risk to the environment or public health?

Answer: No, it is not known for certain whether or not shale gas development through hydraulic fracturing poses no risk to the environment or public health.

3: As you know, in 2010, former Congressman Hinchey and I requested an EPA study to determine the potential impacts of hydraulic fracturing on drinking water. In your FY 2014 budget request, you ask for $6.1 million for the study. As I understand, the study is currently underway with the final report due in late 2014. Is that still the timeline?

Answer: We are on schedule to release a draft report of results for peer review in December 2014. In the Spring of 2015, the SAB will peer review the draft report of results. We expect a final report from SAB by Fall of 2015, and will work to complete the final report of results as expeditiously as possible after that (likely in early to mid 2016, depending on the extent of comments and new information provided during peer review and public comment).

4: Is it correct that the hydraulic fracturing drinking water study has been designated a Highly Influential Scientific Assessment, and that a new Scientific Advisory Board, different from the Scientific Advisory Board that reviewed the scoping for the study, has been selected to review the draft report?

Answer: Yes, the 2014 draft report of results has been designated a Highly Influential Scientific Assessment, as posted on the EPA's Science Inventory. It will receive the highest level of peer review in accordance with the EPA's peer review handbook.

In March, the EPA's independent Science Advisory Board announced the formation of a Hydraulic Fracturing Research Advisory panel, and it is anticipated that this panel will review the draft report of results. This is a different ad hoc panel from the one which reviewed the Study Plan.

5: Given the designation of the study as a Highly Influential Scientific Assessment and the formation of a new Scientific Advisory Board, do you still have sufficient funding, time, and access to information to complete the study by late 2014? Or will it only be released for peer review by that time?

Answer: The EPA plans to release a draft report of results for review by the Science Advisory Board's Hydraulic Fracturing Research Advisory Panel in December 2014.

6: One part of the study I am especially interested in is the case studies. You identified five sites for retrospective case studies and directed EPA, the state, and industry to be present during sampling to verify and review the samples for quality assurance.

a: What are the statuses of the retrospective studies at the five sites? Have there been any issues with data collection and analysis?

Answer: The EPA has successfully completed its Tier 2 sampling activities at all five sites. The data is undergoing quality assurance now, and then the EPA will evaluate the data to determine next steps.

b: There are also supposed to be a number of prospective case studies, where wells are drilled, completed, and then produce, with data collection and measurements each step of the way. What about the sites for prospective case studies? Have they been identified, and do you have the resources and support to proceed?

Answer: The EPA is currently working with industry partners to identify locations and develop research activities for the prospective case studies.

7: The EPA has also issued requests for existing data concerning spills, water and waste treatment and disposal, identities of chemicals, standard operations at drilling sites, well locations, water use, well files, etc., from state, Federal, and local governments, as well as industry and other stakeholders. Are there any existing or ongoing requests for information? How much of a response have you received?

Answer: We have no outstanding formal requests for information. In 2010 and 2011, the EPA requested information from nine hydraulic fracturing service providers and nine oil and gas companies. We received responses from all the firms from whom we requested information and are in the process of evaluating the information and engaging in discussions with the companies to ensure that the information is complete and that we understand it completely.

In November 2012, the EPA published a Federal Register Notice inviting the public to submit data and scientific literature to inform the EPA's research on the potential impacts of hydraulic fracturing on drinking water resources. On April 30, 2013, the EPA extended the deadline to submit information to the docket from April 30, 2013 to November 15, 2013. The EPA extended the deadline in order to provide the public with more of an opportunity to provide data, scientific papers, and other information to inform the EPA's study.

8: As you know, the Energy Policy Act of 2005 exempted hydraulic fracturing from EPA regulation under the Safe Drinking Water Act, except when diesel is used. In the EPA's budget justification, you mention EPA will ensure proper oversight of hydraulic fracturing operations where diesel fuel is used by implementing permitting guidance under SDWA's Class II UIC program. What is the status of the guidance?

Answer: The EPA is currently focused on reviewing the more than 97,000 public comments it received on the draft guidance and on making appropriate revisions to the guidance. Any revised guidance will reflect the public comments the EPA has received on the definition of diesel fuels.

9: The budget justification also mentions that the agency also will work with states and stakeholders on developing and implementing voluntary strategies for encouraging the use of alternatives to diesel in hydraulic fracturing and improving compliance with other Class II regulations, including risks from induced seismic events and radio nuclides in disposal wells. One of the primary factors in America's significant reductions in pollution over the last 40 years has been federal baseline policies for restoring and protecting the environment, including the UIC program. Could you or your staff continue to update us on the guidance and the outreach to improve compliance for this program?

Answer: The EPA is currently focused on reviewing the more than 97,000 public comments it received on the draft guidance and on making appropriate revisions to the guidance. Any revised guidance will reflect the public comments the EPA has received on the definition of diesel fuels.

The Honorable John Barrow

1: I understand that you've been working with stakeholders to finalize the rule governing cooling water intake structures under Section 316(b) of the Clean Water Act. Last year, I joined on a letter to EPA urging that the final rule should provide ample compliance flexibility to accommodate a diversity of industrial facilities and allow for multiple pre-approved technologies. Can you provide an update on your progress for finalizing the rule with those goals in mind?

Answer: The EPA is working diligently to complete its work to develop final standards under Section 316(b) of the Clean Water Act and plans to finalize these standards by November 4, 2013. In exercising its CWA authority to promulgate technology-based standards, the EPA always uses one or more technologies that are available and effective as the basis for setting numeric limits. The EPA sets performance-based standards; the EPA does not prescribe the technology that a facility uses, allowing facilities to take their site-specific factors into account in deciding how best to comply. In the April 2011 proposal, the EPA specifically sought additional data on the extent to which facilities could comply with the proposed standards, which can help the agency assess the extent to which the proposed standards were appropriate. Through this public comment process, the agency

received an additional 80 documents, as noted in the Notice of Data Availability published on June 11, 2012. Moreover, the EPA received significant comments regarding ways in which the impingement mortality standard could be modified to allow site-specific variability to be taken into account, and noted these flexibilities in the June 11, 2012 Notice of Data Availability.

The Honorable Jerry McNerney

1: At the hearing, EPA stated that it plays a role in reviewing the Bay Delta Conservation Plan (BDCP). What have been and what are the specific actions EPA is involved with during this interagency process?

Answer: The EPA reviews NEPA-related documents characterizing BDCP project alternatives, and we have offered observations and advice to the Sacramento Corps District as they develop their permitting framework for the project per the Clean Water Act and Rivers and Harbors Act (the framework is called the BDCP: Permit Application Approach for Conservation Measure 1). We are currently reviewing the Administrative Draft Environmental Impact Statement/Environmental Impact Report (ADEIS) for the BDCP.

a: How has the EPA communicated with other federal agencies that are also working on the BDCP?

Answer: The EPA participates in biweekly Regional Federal Coordination calls/meetings convened by a representative from the Department of the Interior. Beyond this forum, the EPA staff and managers have regular exchanges with representatives from other resource and regulatory agencies and with representatives from a variety of stakeholder groups.

2: The EPA Action Plan for the Bay-Delta stated that "Despite much ongoing activity, CWA (Clean Water Act) programs are not adequately protecting Bay Delta aquatic resources, as evidenced by the pelagic organism decline." Does EPA believe that the current BDCP proposal adequately addresses the concerns outlined in its report related to protecting the Bay Delta Estuary?

Answer: We are currently reviewing the Administrative Draft Environmental Impact Statement/Environmental Impact Report (ADEIS) for the BDCP and we submitted an initial list of comments and concerns to the U.S. Bureau of Reclamation in July.

3: How many and what type of resources (e.g. number of staff, hours worked, and total agency funds, etc.) were used on the BDCP in fiscal years 2011-2012?

Answer: The EPA estimates that two full-time equivalents (FTE) have been devoted to the proposed projects during fiscal years 2011-2012.

The Honorable Lois Capps Capps 001

Question Submitted for the Record by Representative Capps

Question: I commend EPA, as well as HUD and DOT, on their continuing commitment to the Partnership for Sustainable Communities, which helps our local communities plan more efficiently, improving safety, energy efficiency, and livability. The Partnership exemplifies smart community planning that benefits both people and the environment. Mr. Perciasepe, what are some of the main accomplishments of the Partnership for Sustainable Communities and how will EPA continue to prioritize it in its FY 2014 budget?

Answer: Thank you for the opportunity to respond to this question about our innovative partnership with HUD and DOT. This work will continue to be a significant focus going forward as we find new ways to use collaboration with partners at all levels of government to protect human health and the environment in fiscally challenging times. For example, EPA Administrator McCarthy recently released her seven priority themes for "Meeting the Challenge Ahead" and the Partnership for Sustainable Communities directly supports two of those themes:

- Making a Visible Difference in Communities across the Country
- Launching a New Era of State, Tribal and Local Partnerships

Therefore, our work with HUD and DOT on the Partnership will continue to be an important way in which we work toward achieving our goals. I would point to a few accomplishments of the Partnership as outstanding examples of how our work with HUD and DOT supports these key agency priorities by overcoming traditional barriers to progress, fostering innovation and supporting greater efficiency in the way we plan communities.

Over the past four years, the Partnership agencies have provided grants and technical assistance to over 730 communities. This assistance has ranged from targeted technical assistance workshops to multi-million dollar / multi-year grants. However, the consistent theme across all this work has been close coordination among the agencies in support of a clearly defined set of Livability Principles to guide the work. From the outset, the agreement by all three agency heads to direct resources in support of a common set of principles has been a foundation of the initiative's success. This common vision, combined with the commitment of key staff meet every week for the past four years is a major feature that distinguishes this effort from traditional interagency efforts. As a result, we have improved the effectiveness of our work at all scales by ensuring that Federal resources are coordinated and each project takes a more holistic approach that bridges traditional agency silos.

For example, EPA HUD and DOT's efforts in the cities of Ranson and Charlestown, West Virginia are a good example of how the Partnership has allowed us to capitalize on each agency's strengths, avoid duplication of effort, and enable communities to fully leverage a variety of Federal support. In 2010, Ranson and Charlestown received a three year HUD Sustainable Communities Challenge Grant, an EPA Brownfields Area-wide Planning Grant and a DOT TIGER II Planning Grant to create a comprehensive plan for the Ranson-Charles Town Green Corridor Revitalization Initiative. As the cities were kicking off these larger planning efforts, EPA also selected Ranson for its Building Blocks for Sustainable Communities technical assistance program. This more targeted assistance program helped the city strengthen the Green Corridor Initiative by working with stakeholders to develop a community wide vision, identify priority areas for growth, and evaluate existing community tools for managing growth.

The plan that was produced envisions a transformation of Fairfax Boulevard, the main thoroughfare between the two cities. The redesigned boulevard, will also surrounded by walkable, bikeable connections between the two cities to provide access to regional job centers and community facilities. In April 2012, Ranson's city council unanimously approved proposals to enact a new zoning code and comprehensive plan, moving the community one step closer to realizing its vision for growth. Following these changes in city policy, Ranson was also awarded a $5 million TIGER grant to support implementation of the corridor plan. Over a two year period the Partnership's coordinated assistance helped Ranson and Charlestown move from planning to implementation of an initiative that will help revitalize the heart of these two communities.

Little Rock, Arkansas also exemplifies what we can achieve by working closely with HUD and DOT using sustainable communities as a core organizing principle. In 2010, EPA, along with HUD and DOT, worked with Little Rock during the first year of the Greening America's Capitals program. The focus was developing a design plan for Main Street that would help: revitalize the economically distressed area, better manage stormwater, and improve the walkability of the streets. As result of the design that emerged, the city was able leverage:

- $900,0000 from the Arkansas Department of Natural Resources, (EPA Clean Water Act Section 319 non-point source grant funds) to design and to implement green infrastructure elements along a five-block section of Main Street.
- A $900,000 grant from Pulaski County Brownfields Cleanup Revolving Loan Grant to cleanup and redevelop several buildings on a key block of Main Street.
- $150,000 "Our Town" grant from the National Endowment for the Arts to fund a "Creative Corridor" project
- These investments, in turn, have leveraged millions in private investment and helped to revitalize a distressed corridor that previously had many vacant buildings.

Finally, Metroplan, the region's metropolitan planning organization, received a $1,400,000 HUD Sustainable Communities Regional Planning Grant to support the development of *Metro 2040: Blueprint for a Sustainable Region*. This effort will help spread the innovative strategies used in Little Rock to other communities in the Central Arkansas region.

For FY 2014, our Office of Sustainable Communities will continue to coordinate with HUD and DOT on the selection and delivery of its technical assistance programs: *Building Blocks for Sustainable Communities*, *Smart Growth Implementation Assistance* and *Greening America's Capitals*. HUD and DOT will also continue their Interagency Agreements with EPA that support the *Governor's Institute on Community Design*. The Governor's Institute brings national experts into states at the request of their governors to provide technical assistance to cabinet officials. Additionally, the EPA Brownfields Program will continue to include language in the Areawide Planning Grants application instructions that prompts applicants to describe, where appropriate, connections between their proposed workplan and existing Partnership for Sustainable Community grants from HUD and DOT. Finally, EPA headquarters and regional staff will also continue to participate in the review of upcoming HUD and DOT grants related to the Partnership.

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