

Preliminary Transcript

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PROTECTING COMMUNITIES FROM INDUSTRIAL ACCIDENTS: REVITALIZING THE  
CHEMICAL SAFETY BOARD

WEDNESDAY, SEPTEMBER 29, 2021

House of Representatives,  
Subcommittee on Oversight  
and Investigations,  
Committee on Energy and Commerce,  
Washington, D.C.

The subcommittee met, pursuant to call, at 10:34 a.m., in Room 2123, Rayburn House Office Building, Hon. Diana DeGette [chairman of the subcommittee] presiding.

Present: Representatives DeGette, Kuster, Rice, Schakowsky, Tonko, Ruiz, Peters, Schrier, Trahan, Pallone (ex officio), Griffith, Burgess, McKinley, Long, Palmer, Dunn, Joyce, and Rodgers (ex officio).

Staff Present: Austin Flack, Policy Analyst; Waverly Gordon, Deputy Staff Director and General Counsel; Tiffany Guarascio, Staff Director; Perry Hamilton, Clerk; Fabrizio Herrera, Staff Assistant; Rebekah Jones, Counsel; Zach Kahan, Deputy Director Outreach and Member Service; Chris Knauer, Oversight Staff Director; Will McAuliffe,

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Counsel; Elysa Montfort, Press Secretary; Kaitlyn Peel, Digital Director; Tim Robinson, Chief Counsel; Nikki Roy, Policy Coordinator; Andrew Souvall, Director of Communications, Outreach and Member Services; Benjamin Tabor, Junior Professional Staff Member; Sarah Burke, Minority Deputy Staff Director; Jerry Couri, Minority Deputy Chief Counsel for Environment; Marissa Gervasi, Minority Counsel, Oversight and Investigations; Brittany Havens, Minority Professional Staff Member, Oversight and Investigations; Nate Hodson, Minority Staff Director; Emily King, Minority Member Services Director; Bijan Koohmaraie, Minority Chief Counsel, Oversight and Investigations Chief Counsel; Clare Paoletta, Minority Policy Analyst, Health; Alan Slobodin, Minority Chief Investigative Counsel, Oversight and Investigations; and Michael Taggart, Minority Policy Director.

Ms. DeGette. The Subcommittee on Oversight and Investigations hearing will now come to order.

Today the committee is holding a hearing entitled "Protecting Communities from Industrial Accidents: Revitalizing the Chemical Safety Board." This hearing will examine the ongoing mission, governance, staffing, and other challenges at the Chemical Safety and Hazard Investigations Board.

Due to the COVID-19 public health emergency, members can participate in today's hearing either in person or remotely via online conferencing. Members who are participating in person must wear a mask. Such members may remove their mask when they are under recognition and speaking from a microphone. Staff and press who are present in the committee room must also wear a mask at all times.

For members participating remotely, your microphones will be set on mute for the purpose of eliminating inadvertent background noise. Members participating remotely will need to unmute your microphone each time you speak -- something you'd think we'd be used to by now.

Please note that once you unmute your microphone, anything that is said in Webex will be heard over the loud speakers in the committee room and subject to being heard by livestream and C-SPAN.

House Members are participating from different locations at today's hearing. All recognition of members, such as for questions, will be in the order of subcommittee seniority.

If at any time during the hearing I'm unable to chair the hearing, the vice chair of the subcommittee, Mr. Peters, will serve as chair until I can return.

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Documents for the record can be sent to Austin Flack at the email address we have provided to staff, and all documents will be entered into the record at the conclusion of the hearing.

The chair now recognizes herself for purposes of an opening statement.

Good morning. Today's oversight hearing covers one of our small but incredibly important independent agencies, the Chemical Safety Board, or CSB.

Although many of you have never heard of it, the CSB plays a vital role in protecting American workers and communities.

We are all familiar with the role of the National Transportation Safety Board. When a plane falls from the sky, we want to understand not just why it happened, but also how we can prevent it from happening again.

And that's the role that CSB plays when it comes to industrial accidents. The CSB improves the safety of American workers, communities, and the environment by investigating the root causes of these tragic events and making recommendations to prevent them in the future.

While many Americans may not know the CSB by name, they are certainly familiar with some of the critical incidents that it has investigated.

Please display the first slide.

[Pause.]

Ms. DeGette. They did practice this in advance.

[Pause.]

Ms. DeGette. We have some kind of a technology problem, but I hope we can fix it, because the first slide was a photo of the 2010 Deepwater Horizon disaster.

And we all remember the Deepwater Horizon, a sudden explosion and fire on an offshore rig that took the lives of 11 workers and seriously injured 17 others.

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It also triggered a massive oil spill into the Gulf of Mexico that lasted for 87 days, one of the worst environmental disasters in U.S. history.

In fact, this subcommittee held a field hearing in Louisiana to assess the local impact of the spill, and then I and Ranking Member Waxman later sent a letter to CSB requesting that they further examine the root cause of the accident. This was a disaster.

In 2005, there was the BP America Refinery explosion in Texas City, just outside of Houston. In that incident, 15 workers were killed and 180 more were injured during the restart of a unit at the refinery.

In 2013, Texas saw yet another tragedy, this time at a fertilizer storage and distribution facility in the town of West. A fire within a storage facility triggered a massive explosion of ammonium nitrate. Twelve emergency responders and three members of the public died, Over 260 people were injured, and more than 150 homes and businesses were damaged, resulting in hundreds of millions of dollars of property destruction.

More recently, in 2019, there was a massive fire at the Philadelphia Energy Solutions Refinery in Philadelphia, Pennsylvania, where a vapor cloud including potentially deadly hydrochloric acid ignited.

The quick actions of a control room operator to rapidly drain the remaining hydrochloric acid prevented a massive release of more of the harmful gas which would have placed the highly populated surrounding communities at tremendous risk.

These are just a few examples of the critical incidents that CSB has deployed to over the past several years.

The devastating impacts that these accidents have had on facilities, workers, and surrounding communities are obvious, and the CSB safety recommendations that have come out of these and other investigations are directly responsible for improved safety

conditions within many U.S. industries.

CSB's work has saved lives and protected communities, and those of us with industrial facilities in our districts understand the stake in CSB's work. We want to see this agency flourish.

But despite the positive impacts, there have been challenges at the agency since its inception. In recent years, Board vacancies, unfilled staff positions, employee morale issues, and most recently, the COVID-19 pandemic have led to unproductivity at the agency.

We were pleased to see that the CSB published two new final investigation reports last Friday, but there are still currently 18 open investigations, some dating back to incidents that occurred in 2016 and 2017.

This is the biggest backlog of investigations that the agency has ever had -- one of them.

The timeliness of these reports matter. When CSB isn't expeditiously sharing its findings, it cannot effectively prevent future incidents and fulfill its mission to protect people and the environment.

Now, we are aware of the many challenges that I have already mentioned today, and they were inherited by our witness today, Chairman and CEO Katherine Lemos. But we're also here today not to focus on CSB's past, but the present and future.

And so the questions are straightforward:

How does the CSB intend to finish and close the many important investigations it's opened, and when can we expect to see the vital recommendations that come from that work?

How will the CSB take on important new work if it can't close the many investigations that remain incomplete?

When will the CSB fill key staffing vacancies to its investigative mission?

And, finally, what's the plan to address how the important governing board operates and to avoid the dysfunction it's suffered from in the past.

In short, we need to understand the Chair's strategic plan to move this agency forward.

I'm pleased that part of the solution is already underway. The Chairman will soon have reinforcements on the Board. President Biden has nominated three new Board members who we hope to see confirmed soon, seeing as right now we only have one Board member and she is sitting right here.

We look forward to the increased activity that we expect to see when they are on board. But we also know new Board members alone will not solve all of the agency's problems, and that's why we're holding the hearing today.

I want to thank the Chairwoman for being here today, and I look forward to the discussion so that we can ensure CSB has the leadership, strategic plan, and resources needed in order to execute on its vital mission. American workers and communities are simply counting on it.

The chair is now very pleased to recognize the ranking member of the subcommittee, Mr. Griffith, for 5 minutes for an opening statement.

[The prepared statement of Ms. DeGette follows:]

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Mr. Griffith. Thank you, Chair DeGette, for holding this hearing.

As you said, the Chemical Safety Board is an independent, nonregulatory Federal agency. According to its enabling statute, the leading charge of the Chemical Safety Board is to investigate and determine the cause of any accidental release resulting in a fatality, serious injury, or substantial property damage.

It has been described, as Chairwoman DeGette described it, as the equivalent of the National Transportation Safety Board but for chemical spills as opposed to transportation accidents.

Unfortunately, the Board has been criticized for falling short of accomplishing this primary responsibility.

The Chemical Safety Board was created by the Clean Air Act Amendments of 1990, but it did not become operational until 1998.

Since then, it has been saddled with functioning challenges. In 2000, just two and a half years after its inception, the Government Accountability Office identified management challenges and investigative backlog.

Now, 21 years later, we share the same concerns as our colleagues of Congresses past.

Since May 1, 2020, the Chemical Safety Board has operated with only one of its five Board seats filled.

Chair Lemos, I understand that under your leadership you have been disadvantaged with a short staff and a sharp learning curve. The vacancies in Board member positions impede the agency from making substantial progress on benchmarks.

Board members are vital for facilitating and closing out investigations, including participating in site visits and approving investigative reports.

The Chemical Safety Board certainly faces challenges in recruiting and retaining qualified staff. The quality of investigations hinges on the ability of experts to conduct complete, unbiased investigations. These investigators should have solid backgrounds in chemical engineering or industrial process safety.

We understand it is difficult to compete with industry to find such specialized skill sets, but we are hopeful the Board is taking actions to recruit these kinds of candidates for vacant investigator positions, and we would like to see that progress continue.

I believe that Chemical Safety Board investigations can benefit industry, but I have some concerns how this work is being conducted.

Due to the ongoing challenges with management over the years, investigation processes are somewhat unclear. The Board should establish unbiased criteria for selecting incidents to investigate as well as protocols to determine when to deploy an investigative team.

Uniform procedures would help to ensure objectivity and balance in the Board's investigative work, especially as staff turnovers occur.

Based on the data and analysis of an investigation, investigative reports usually include recommendations. Yet these recommendations have no legal standards. They lack cohesiveness from one report to the next. And an absence of standardized criteria allows for investigative reports to include agenda-setting recommendations that advance a particular viewpoint.

This is not the job of the Chemical Safety Board. The job of the Chemical Safety Board is to determine the root cause of an accident.

When recommendations are made, they should focus on measures to minimize the consequences of an accidental release. That is their purpose, as outlined in the statute. And recommendations should not need to be rewritten if new staff is placed on

an investigation.

The Chemical Safety Board should not set expectations that are unreachable. It is not practicable to eliminate all chemical accidents, and the law does not mandate that.

Above all, the role of the Chemical Safety Board is to play fact finder in these incidents and to provide regulators with information they need to create policy. The Board should not seek out investigations or issue recommendations simply to spotlight disfavored technology or preferred new practices.

Finally, the Chemical Safety Board must focus on completing outstanding investigations as quickly as possible. To gain the trust of stakeholders and the public, the Board must conduct its operations in a timely and a transparent manner, and communications between the Chemical Safety Board and industry must improve to repair the reputation of the Board.

Today I hope we will focus on what the Chemical Safety Board can and should do in the upcoming months to close out high quality investigations in both an expeditious and an efficient manner. We need to hear from the Board on how they will improve internal processes and allocate resources judiciously to complete rigorous and instructive investigations.

I thank you for representing the Chemical Safety Board, Chair Lemos, and being here today, and we look forward to your testimony.

I yield back.

[The prepared statement of Mr. Griffith follows:]

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Ms. DeGette. I thank the gentleman.

The chair now recognizes the chairman of the full committee, Mr. Pallone, for 5 minutes for an opening statement.

The Chairman. Thank you, Chairwoman DeGette.

Today we are conducting oversight of a little known but important Federal agency, the Chemical Safety Board. Coming from a State with a large number of industrial facilities, I have been involved with the CSB since its inception, helping to create and secure appropriations for the agency back in 1998.

Since that time, CSB has conducted vital investigations into industrial chemical accidents. Its mission is to find answers and provide recommendations to prevent future incidents.

For example, in my district, CSB investigated the 2005 Acetylene Service Company gas explosion in Perth Amboy, which killed three workers. From its findings, CSB made recommendations that addressed the dangers of flammable gas accumulation and how to prevent similar incidents in the future.

But despite its good work, CSB has faced numerous challenges in recent years. This past May the committee sent a bipartisan letter to CSB outlining our concerns, including a backlog in investigations, understaffing, and management challenges. And these concerns are shared by members on both sides of the aisle, and I'm pleased that we're here today to continue this important bipartisan oversight.

One of my biggest concerns is that CSB has been slow to finalize its reports and provide critical safety recommendations in recent years.

For instance, CSB has yet to release its investigative report on the 2019 Philadelphia Energy Solutions refinery fire and explosions which involved the release of

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hydrochloric acid, a highly toxic chemical.

Fortunately, because of the built-in safety protocols at the plant and the heroic action of the workers, the worst potential outcomes for both the workers and the surrounding Pennsylvania and New Jersey communities were narrowly avoided.

It has been 2 years now since this incident and CSB still has not released its investigative findings. It's imperative that we understand the root causes of these types of incidents so that we can safeguard workers, protect communities, and prevent future incidents.

I look forward to hearing from Chairperson Lemos on her plan to close this and other investigations.

The CSB also plays an important strategic role in preventing future incidents in the face of climate change and extreme weather. Industrial facilities across the country are at increasing risk. You need to look no further than this most recent hurricane to see that.

Earlier this month Hurricane Ida dropped record rainfall in New Jersey, flooding the Raritan River and devastating communities throughout the State. The Environmental Protection Agency is still assessing the damage at oil sites, chemical facilities, and Superfund sites, including one completely inundated Superfund site that was previously home to a large chemical plant.

Meanwhile, in Louisiana, 138 industrial facilities were in regions that fully or partially lost power due to Hurricane Ida. This is problematic considering that some of these facilities use electricity to contain hazardous materials. We don't know yet the full extent of chemical spills, oil leaks, and toxic air releases in the State.

And to its credit, CSB has warned industrial facilities about the safety hazards posed by extreme weather events, particularly hurricanes. For example, CSB highlighted

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the 2017 Arkema chemical plant fire near Houston, Texas, and found that the company was unprepared for the flooding levels experienced during Hurricane Harvey.

Houston Mayor Sylvester Turner testified before the subcommittee in March that the Houston region, which is home to countless petrochemical and other industrial facilities, experienced three "500-year" floods in 3 years. And recent analysis shows that 2,500 chemical sites in the U.S. lie in moderate- to high-risk flood zones.

So there is no question that floods and other extreme weather events are getting worse. I look forward to hearing how the Chairperson is positioning the agency to address these growing strategic challenges.

In my view, getting the CSB back to functioning at the highest level is the first step, and the goal of today's hearing is to help get CSB back on track. And I hope that we can all come back together to revitalize this critical agency. It really is critical.

And I thank the chairperson for having this hearing, which I think is very important.

Thank you, Chairwoman DeGette.

[The prepared statement of The Chairman follows:]

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

The chair will now recognize the ranking member of the full committee, Mrs. Rodgers, for 5 minutes for an opening statement.

Mrs. Rodgers. Good morning, Madam Chair. Thank you.

The chemical industry is one of the largest manufacturing sectors in the U.S., serving both a domestic and global marketplace. Our chemical industries help stimulate the economy by providing materials that we use in our everyday life.

But when major chemical accidents occur, it can result in devastating impacts, including death, serious injury, and significant property damage. These accidents pose a significant risk not only for workers, but for surrounding communities.

In the Clean Air Act Amendments of 1990, Congress took a three-faceted approach to address the potential risk from these significant events, using the Occupational Safety and Health Administration, the Environmental Protection Agency, and the Chemical Safety Board.

To understand the role of the CSB, it is essential to understand the landscape in which the Board operates, including its main players and their designated roles.

The EPA has a primary role in addressing accidental releases. The 1990 amendments required the EPA to publish regulations and guidance for chemical accident prevention, preparedness, and response activities at facilities using substances that pose the greatest risk of harm from accidental releases. This act placed EPA in charge of requiring qualifying companies to develop their own risk management plans.

To protect workers from injury resulting from accidental releases, the 1990 amendments provided OSHA with standard setting and enforcement authority concerning process safety management. OSHA also provides training, outreach,

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education, and assistance in this area.

Unlike EPA and OSHA, the CSB by law is an independent, nonregulatory body established to provide objective knowledge. The Board's primary purpose, as stated in the conference report, the Clean Air Act Amendments of 1990, is to investigate the root causes of accidental releases.

This is an important function. Without an independent investigative body searching for the answers, the industry will not have all the valuable information needed to reduce the risk of a chemical accident that causes substantial damage.

Unfortunately, though, the CSB has recently failed in fulfilling this mission. Right now the CSB has a backlog of 18 investigations, not including the 2 investigations that were closed last Friday, with the oldest open investigation from 2016.

Let me be clear, waiting more than 5 years to close out these timely and important investigations simply is not acceptable. These investigations help companies understand what went wrong to help prevent future accidents.

Something must be done to improve the investigative process and end the waiting game for owners and operators of these facilities.

I recognize the CSB must have all of its parts working to ensure functionality, otherwise it cannot address its investigative backlog and new investigations.

A key building block here is quality investigators. They must have chemical or process safety expertise to analyze accidental releases and discover their root causes.

It is also crucial that investigators have proper experience and the relevant scientific qualifications to make technically feasible and practical recommendations about how to reduce risks from chemical accidents.

The Board's statutory responsibilities include investigating chemical accidents and providing Congress, Federal, and State authorities with periodic reports that contain

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recommendations to improve chemical safety.

Unfortunately, CSB is not fulfilling those responsibilities. Importantly, the CSB should not be seeking ways to expand its jurisdiction into EPA's or OSHA's authorities.

The testimony mischaracterizes, quote, "safety recommendations" as part of a root cause investigation. While it seems reasonable CSB suggest steps to address a specific accident, its statute seems to suggest something different.

Under the law, "safe" is a feature that may be explicitly covered in CSB's periodic reports, not root cause investigations; moreover, the majority of the law's references to recommendations, suggested changes, and regulations.

The CSB should channel its resources into conducting investigations, especially looking for ways to meet the baseline. It should not use its investigations and the recommendations in its report to push certain agendas.

My hope is that the Board will resist the urge to become distracted with other priorities and focus on the main task at hand: demonstrating it can color inside the lines by focusing on investigations. Ultimately, workers, communities, and our manufacturing sector depend on it.

Thank you. I yield back.

[The prepared statement of Mrs. Rodgers follows:]

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Ms. DeGette. I thank the gentlelady.

The chair now asks unanimous consent that the members' written opening statements be made part of the record. And without objection, so ordered.

I now want to introduce our witness for today's hearing, the Honorable Katherine A. Lemos, Chairperson and Chief Executive Officer, U.S. Chemical Safety and Hazard Investigation Board.

We really want to thank you for appearing here today. And I know you are aware that the committee is holding an investigative hearing, and when we do so, we have a practice of taking the testimony under oath.

Do you have any objections to testifying under oath?

Dr. Lemos. No, ma'am.

Ms. DeGette. Let the record reflect the witness responded no.

The chair then advises you that under the rules of the House and the rules of the committee, you are entitled to be accompanied by counsel.

Do you desire to be accompanied by counsel today?

Dr. Lemos. No, ma'am.

Ms. DeGette. Let the record reflect the witness has responded no.

And so, if you would, would you please rise and raise your right hand so you may be sworn in?

[Witness sworn.]

Ms. DeGette. And let the record reflect the witness responded affirmatively.

And you are now under oath and subject to the penalties set forth in Title 18, Section 1001 of the United States Code.

And at this time the chair will now recognize you for 5 minutes to provide your

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opening statement. Before we begin, I want to explain the lighting system.

In front of you are a series of lights. The light will initially be green. Then it turns yellow when you have 1 minute remaining. We would ask that you try to wrap up at that time, start wrapping up. And the light turns red when your time expires.

And so, Chairperson Lemos, you are now recognized for 5 minutes.

**TESTIMONY OF KATHERINE A. LEMOS, PH.D., CHAIRPERSON AND CHIEF EXECUTIVE OFFICER, U.S. CHEMICAL SAFETY AND HAZARD INVESTIGATION Board**

Dr. Lemos. Thank you. Good morning. I'm Dr. Katherine Lemos, and I'm proud to serve as the Chairperson and CEO of the United States Chemical Safety and Hazard Investigation Board, or CSB.

As you know, and as you stated, our mission is to "drive chemical safety change through independent investigations to protect people and the environment." This is a critically important mission and one to which we are fully committed.

We achieve this mission through three strategic goals: to advocate for safety, to prevent the recurrence of significant chemical incidents, and to maintain an engaged and high-performing workforce.

I would like to address each of these.

First, our strategic goal to advocate for safety, which involves achieving change through recommendations, outreach, and education.

In total, CSB has released 860 safety recommendations; 742 of those are closed. In fiscal year 2021, CSB has issued 19 new safety recommendations, in comparison to zero for fiscal year 2020.

A major focus of CSB in fiscal year 2021 has been advancing and closing previously issued recommendations, because this is a key driver to realizing positive safety change.

In fiscal year 2021 CSB advanced 46 recommendations; 28 closed successfully. In comparison, in fiscal year 2020, CSB advanced only 15 recommendations; 4 closed successfully.

Another strategic goal is to prevent recurrence of significant chemical incidents

through independent investigations.

Over the years CSB deployed to 146 incidents. Even through the pandemic, following our COVID Safety Plan, which we implemented very early on in my tenure, CSB has continued to efficiently deploy to meet our mission.

In fiscal year 2021, CSB made a commitment to increased transparency, and we have demonstrated this through initiating live board meetings upon completion of our investigations.

In fiscal year 2021, utilizing this new transparency process, we completed three investigations: Aghorn, AB Specialty Silicones, and Evergreen Packaging. This compares to only one completed investigation in fiscal year 2020.

We are working diligently to complete the remaining 18 open investigations. Due to enhanced internal processes developed this year, we are poised to complete investigations more efficiently moving forward.

Our third goal, it is to create and maintain an engaged, high-performing workforce. After accepting this role last year, I was shocked to learn of how low the staff numbers actually were.

Our agency is critical to the safety and the well-being of our workers, the public, the communities, and our environment.

To address this, we have prioritized hiring a robust, diverse, and engaged Mission Product Team. And by year end fiscal year 2023, our plan is to have an all-time high number of investigation and technical specialists on the Mission Product Team.

We have also increased technical contractor support, with expertise in specialized fields, such as metallurgy, blast modeling, and equipment testing.

To create more stability at the agency, we are hiring key support staff and leadership at the career level.

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Finally, CSB looks forward to onboarding new Board members. These appointees are critical to our mission. They bring unique subject matter expertise and additional perspectives that helps to ensure the integrity of our products while enhancing our advocacy.

Ultimately, we are committed to the CSB mission, we are committed to its growth, and we are committed to ensure that we can respond and react properly to catastrophic chemical events.

Thank you, and I look forward to your questions.

[The prepared statement of Dr. Lemos follows:]

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Ms. DeGette. Thank you so much, Chairperson Lemos.

The chair now recognizes herself for 5 minutes for questioning.

And as I said in the opening statement, today's discussion is really focused on where the agency is right now and what we need for it to do for it to function going forward.

And so I just want to ask you a series of questions, Chairperson, and if you can, if you can answer as briefly as you can, that would help because, of course, we each only have 5 minutes to question.

Now, as we all talked about on both sides of the aisle, CSB investigates some of the most consequential industrial accidents in the United States. Is that correct?

Dr. Lemos. Yes, ma'am.

Ms. DeGette. And the purpose of those investigations is to identify the root causes and then make corresponding safety recommendations to prevent future incidents. Isn't that correct?

Dr. Lemos. Yes, ma'am.

Ms. DeGette. So conducting these investigations and then informing the public of its findings is really the bread and butter of CSB's work, and I know that you agree with that.

So let's talk for a minute about the investigation backlog, which I know you are striving mightily to reduce. But as many of us on both sides of the aisle said, there are 18 open investigations, some which go back to 2018.

So my first question to you, Chairperson Lemos, is, do you currently have a strategic plan and scheduled timeline to close each of the 18 open investigations?

Chairperson, do you have a plan to close each of those 18 investigations?

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Dr. Lemos. Yes, Chairwoman, we have a plan. And I'm looking for my specific notes on the data for that right now.

Ms. DeGette. Okay.

Dr. Lemos. So hold just a moment.

Ms. DeGette. The ranking member points out the plan is with the slide.

Do you have that there? You know what, what I'm going to -- okay. Do you have it now?

Can you turn your mike on, please?

Dr. Lemos. So sorry. I actually have two different aspects.

First of all, our top priority is to focus on the mission.

Ms. DeGette. Yes, okay. But do you have a plan for closing those 18 open investigations? Yes or no?

Dr. Lemos. Yes.

Ms. DeGette. And can you give me a copy of that plan?

Dr. Lemos. We can provide a copy of the plan. As we have discussed or as we have exchanged information with your staff --

Ms. DeGette. Okay. If you can give me a copy of that plan, then I will put it into the record.

And the other point that I want to ask in my time remaining, that's transparency of the agency. CSB's regulations require that each quarterly public meeting include a review of the Board of the schedule for completion of all open investigations.

Now, I understand that the schedule has not always been made public in the past. So will you commit to providing this schedule of completion for all open investigations at your quarterly public meetings going forward?

Dr. Lemos. So, first of all, I would like to address one of the questions you asked

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before.

Ms. DeGette. Okay. But, first of all -- and I will have time for you to do that, but let's answer this question.

Can you provide the schedule of completion for all open investigations at your quarterly meetings? So if you have a quarterly meeting, you can say which ones you are planning to close.

Dr. Lemos. I can tell you right now which four are the next to come up.

Ms. DeGette. Okay. But do you plan to release those at your quarterly meetings?

Dr. Lemos. Yes, we plan to release those.

Ms. DeGette. Okay.

Dr. Lemos. And we have actually recently, in the last two meetings, said which ones will be up for finalization.

Ms. DeGette. Super. Thank you.

And then you can go back to your -- I've got 45 seconds, so you can answer my previous question.

Dr. Lemos. Understand. Yes, we have a plan. We have got early phase, mid phase, and late phase.

Ms. DeGette. Super.

Dr. Lemos. And I can tell you the four right now that are up for legal review, which is the final phase before the Board receives them --

Ms. DeGette. Great.

Dr. Lemos. -- are Sunoco, Didion, BioLab, and Loy Lange. And I would give you all of the details on that except you have limited time.

Ms. DeGette. That's okay. We have a lot of members that can ask.

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And then what about the rest of the investigations? Do you have a plan for completion of those?

Dr. Lemos. Yes, we do, and we will provide that to you.

Ms. DeGette. I so appreciate it. Thanks.

And, again, I really appreciate the yeoman's work that you are doing in a very tough situation. But we all agree on the mission here. We just have to get this agency working to protect the safety of our constituents.

With that, I will yield to the ranking member 5 minutes for his questioning.

Mr. Griffith. Thank you, Madam Chair. I appreciate it.

According to its statutory authority, the Chemical Safety Board can incorporate recommendation measures into investigative reports. But I have been told investigators sometimes may write investigative reports that incorporate their own background or biases when developing recommendations.

If they are doing so, that might challenge the independent investigatory jurisdiction of the Chemical Safety Board to determine the root cause of an accident.

Does the Board have standardized requirements for its recommendations?

Dr. Lemos. The Board has standardized requirements which are in the process of being codified, and that is exactly what we're trying to address in our internal process improvement.

Mr. Griffith. And when do you anticipate that that will be codified? I know you are the only member of the Board so it makes it more difficult, but when do you anticipate that would be completed?

Dr. Lemos. Within months.

Mr. Griffith. So if we check back in 6 months, it either ought to be done or pretty darn close? Is that what you're saying?

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Dr. Lemos. It should be prior to that. We actually have drafts written, and it would be nice to have other Board members to weigh in on that as well.

Mr. Griffith. Thank you. I don't disagree with that.

Dr. Lemos. Okay.

Mr. Griffith. And do appreciate that you have been carrying this load yourself. So I don't want to underscore that with any of my --

Dr. Lemos. We've already drafted it.

Mr. Griffith. I don't want to undermine that or neglect to say that, because I'm going to ask some tough questions. I understand you have got some handicaps.

Do you think it would be a good idea to establish legal criteria? So you're going to codify these standardized requirements, but do you think it would be a good idea to establish legal criteria so we can have a greater standardization among recommendations and reduce the chance of agenda setting through recommendations?

Dr. Lemos. So everything that we process currently under my tenure undergoes legal review, every recommendation, every report, every safety bulletin, every safety alert. That was not the case prior.

Mr. Griffith. Okay. So I guess that's, in essence, a yes.

Dr. Lemos. Yes.

Mr. Griffith. All right.

In your message in "The Chairman's FY 2020 Chemical Safety Board Impact Report," you state, "The U.S. Chemical Safety Board has successfully carried out its core mission work in fiscal year 2020 despite an unprecedented impact from COVID-19."

The Board's mission is to "drive chemical safety change through independent investigations to protect people and the environment." But that language is not actually found in the statute.

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Is the Chemical Safety Board's mission different from its statutory requirements?

Dr. Lemos. Per my understanding, they are exactly the same.

Mr. Griffith. Okay. We might disagree on that. We can talk about that later.

In determining the success of carrying out its mission for a fiscal year, does the Board factor in how many investigations were closed during that year?

Dr. Lemos. Can you please repeat that question one more time?

Mr. Griffith. Yes, ma'am. In determining the success of carrying out its mission for a fiscal year, does the Board factor in how many investigations were closed during that year?

Dr. Lemos. In the past, performance has not been a measure that has been held accountable, that the Board has been accountable to, and I've instituted that. We have included that information in budget requests. But that is something that I am working strongly to institute.

Mr. Griffith. So that should be a part of the determination as to whether or not you've had a successful year?

Dr. Lemos. Absolutely.

Mr. Griffith. Okay.

The impact report also states that a top priority for the Board is to continue delivering high-quality safety products to the community. Can you explain what "high quality" means in this case?

Dr. Lemos. This means they're all cause, they investigate to the degree that the safety impact is warranted, and we apply our resources accordingly, and that the outcome is sound.

Mr. Griffith. All right. What were prior Chemical Safety Board products lacking that caused you to establish different standards to improve the quality of the work

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product?

Dr. Lemos. As mentioned, there have been widely varying product types and product integrity levels. Having come from the NTSB and having been at the FAA receiving those recommendations and reports, it's really important that you have consistency in your logic flow from the facts to the findings to the conclusions to the recommendations. And that is something that we have been working on vehemently this past 6 months to a year.

Mr. Griffith. All right. Thank you very much.

I yield back.

Dr. Lemos. Thank you.

Ms. DeGette. I thank the gentleman.

The chair now recognizes the chairman of the full committee, Mr. Pallone, for 5 minutes.

The Chairman. Thank you, Chairwoman DeGette.

I wanted to focus on CSB's strategic role in addressing climate change risk to industrial facilities.

As you know, thousands of our chemical and petrochemical facilities are in low-lying areas that are vulnerable to flooding. Just this past month Hurricane Ida caused a serious risk of power outages and flooding at a number of facilities in my State, Louisiana, and New York.

And I'm pleased that CSB's guidance and recommendations began to address climate change and extreme weather following Hurricane Harvey and the resulting Arkema chemical plant fire in 2017, but we have to do more. Many facilities seem to be caught off guard by catastrophic events driven by climate change.

So let me ask the Chairperson, what more should industrial facilities be doing to

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prepare for a changing climate, in your opinion?

Dr. Lemos. So just to repeat, what more should facilities --

The Chairman. What more do you think that industrial facilities should be doing to prepare for a changing climate? What are your suggestions?

Dr. Lemos. So based on the Arkema report, we recommended that CCPS put out comprehensive guidance, which is how to prepare for extreme weather events. As we have seen with Ida, behind me, Managing Director David LaCerte is from Louisiana, Baton Rouge, lived through that. And a lot of our -- we anticipate seeing more and more of these events, so it's going to become even more of a challenge for chemical industry moving forward.

So we have interacted with GAO in extreme weather, in making sure that we collect the information and trending and tracking and which incidents in the past and the future have occurred due to extreme weather to try to find some causal factors.

But in terms of what plants or facilities can be doing, following guidance that is out there to ensure that they are not just preparing for today's historical, but tomorrow's, based on recent history, and predicted future level of extreme events.

The Chairman. Well, I appreciate that you are putting out recommendations, and hopefully there will be more.

But I did want to ask, I want to make sure that CSB, that its Board members, staff, and specialists are relying on sound science.

Let me just ask you, Chairperson, has the Board identified a set of scientific resources that it draws upon to help assess the impacts of increased sea levels, rise in storm surge, storm intensity, or other extreme weather events? What are the scientific resources that you draw upon?

Dr. Lemos. So I'm glad that you mentioned that the CSB is an independent and

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scientifically based agency.

We, as we mentioned to the GAO -- and a report is forthcoming in a few months -- we focus on the extreme weather events. And it's more responsive.

There are other agencies that are responsible for predicting what might occur. What we need to do is ensure facility resiliency and ensure that there is guidance that is adequate to help facilities prepare for these extreme weather events.

The Chairman. But, I mean, have you identified a set of scientific resources that you draw upon to assess the impacts of this climate change?

I mean, there is that, and then there is also, like, the challenge with staffing. So having the right mix of experts to do these assessments.

So I guess I'll just repeat, if you've identified a set of scientific resources to draw upon or you're considering bringing on additional investigators to examine the nexus between climate change and industrial preparedness?

Dr. Lemos. That's a wonderful point. And in terms of staffing and our ability to conduct scientific studies, first of all, we need to partner with our Federal agencies as our enabling legislation encourages, because at this point we don't have the staff to conduct that level of safety study and analysis.

So we need to rely on a range of our Federal partners and outside entities to be able to identify what could be done and what should be done in the chemical community.

The Chairman. I mean, I know you can't lobby us for additional resources, but it sounds like you do need additional resources. So I'll take that to mean you do need additional resources and you would like to see additional resources for more staffing.

Dr. Lemos. Um, I'm certainly not lobbying. I'm telling you that there's only so much that we can do with the resources that we have. And I would -- we would appreciate fully funding what we have requested. I believe that we're in an upward

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trend. We have hired more staff. They are joining. We're likely to get more Board members. I believe that that's an upward trend, and we're going to maintain that staff and engage them.

But to be able to conduct all of the activities in our enabling legislation, which is to conduct safety studies, in addition to investigations, although investigations is the primary, we would need that additional staff to be able to carry that out effectively and fully.

The Chairman. Thank you. Thank you so much.

Thank you, Madam Chair.

Dr. Lemos. You're welcome.

Ms. DeGette. I thank the gentleman.

The chair now recognizes Mrs. McMorris Rodgers for 5 minutes.

Mrs. Rodgers. Thank you, Madam Chair.

I believe it's important that we focus on the mission of this Board, the Chemical Safety Board. And before we start talking about more people and more resources, let's make sure that the Board is actually even fulfilling the mission as currently stated in the statute.

And I think it's clear that members on both sides of the aisle have concerns about the effectiveness and the outcomes of the Board with the current staff and current levels of funding.

On the CSB website, it states that the investigative process generally takes 6 to 12 months to complete, and a draft report is then submitted to the Board for consideration. Reports may be adopted through a written vote of the Board or in a formal public meeting during the incident site or in Washington, D.C.

Dr. Lemos, can you walk us through the investigative process currently and if we

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can expect new investigations to be completed within the stated timeline of 6 to 12 months?

Dr. Lemos. I think, to answer your question, 6 to 12 months, if you look at our history, that's not the timeline that things have been closing. But the community and our agency is accountable to actually meet a more rigorous timeline.

If you look at our counterpart, the NTSB, it's about two and a half years for a major investigation. Part of the problem or part of the challenge is that our agency has moved to an all-or-nothing full investigation, 160-page report, or not at all.

And part of what I'm trying to do is return to what the CSB used to do and what the NTSB does and provide a range of products such that we can get out immediate safety recommendations and products within that timeframe.

Mrs. Rodgers. So do you believe that the 6 to 12 months is the right timeline? Or, if it's not the right timeline, then do you think Congress needs to evaluate the timeliness of CSB's work?

Dr. Lemos. So I believe that the enabling legislation says 1 year. One year is very aggressive, especially for a major investigation. I believe that less than that is very reasonable for a minor investigation.

Mrs. Rodgers. The oldest investigation in the backlog is from 2016. Do you think that the recommendations for that report, assuming the investigation is closed at some point, if implemented, would be outdated or carry less weight as these recommendations would have a year or so after the incident?

Dr. Lemos. There's no doubt that the delay has a negative impact on the safety.

Mrs. Rodgers. Thank you.

Dr. Lemos. But we do have the ability to issue urgent safety recommendations, if identified, any phase of the investigation.

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Mrs. Rodgers. Okay. And "The Chairman's FY 2020 Chemical Safety Board Impact Report" states that one investigation was closed. If there's a backlog of 18 investigations, does it mean it would take 18 years to address only the backlog? Or do you have a plan for an accelerated process for backlogged investigations?

Dr. Lemos. Thank you for that question.

We absolutely have a plan for accelerated closure. We've already executed on that. We did three, we completed three this year versus one last year. There were different reasons for that.

And I've already committed to six in the coming year. And we've already identified four that will be coming to the Board before the end of the year or early in the next year.

I would like to have other Board members to vote on those with me. But that would close the three oldest, plus one of the newer.

Mrs. Rodgers. The statutory purpose of the CSB in the Clean Air Act is to investigate root causes of accidental releases.

Have you discussed providing alternative types of work product, besides an investigative report, that identifies the root cause in a condensed bulletin report form?

Dr. Lemos. I'm so glad you mentioned that, because that's exactly what the CSB used to do and what the NTSB does.

And so by providing a range of products, a safety bulletin, a safety case, one of the most impactful reports I've ever read was from 1998, two events in eight pages in a safety bulletin unrelated, but they both -- unrelated industries -- but they both dealt with management of change.

Those were out, I believe, within 6 to 8 months. That is what we need to be able to accomplish.

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Mrs. Rodgers. Thank you.

I yield back, Madam Chair.

Ms. DeGette. I thank the gentlelady.

The chair now recognizes Miss Rice for 5 minutes.

Miss Rice. Thank you, Madam Chair.

Ms. Lemos, if we could just go down, I'd just like to talk about the nuts and bolts of the agency.

Ms. DeGette. Miss Rice, you're fading in and out.

Miss Rice. Okay. Can you hear me now?

Ms. DeGette. Yes.

Miss Rice. Okay. Great.

Ms. Lemos, I'd like to get to the nuts and bolts of the purpose for this agency and remind everyone that while it was created in 1990 and authorized by the Clean Air Act Amendments of 1990, it wasn't funded until 1998 as a result of a series of industrial accidents led to a renewed impetus to secure appropriations for the organization.

So now it's my understanding there are presently four vacancies on a five-member Board, and President Biden has made three nominations that are sitting in the Senate waiting for confirmation.

So I'm sure that that is providing an enormous amount of difficulty for you to actually carry out the mission of this organization since you're the only Board member out of a five-member Board.

And I would ask, I'm sure that I will get the agreement of my Republican colleagues on this committee, to ask their Republicans colleagues in the Senate to move these nominations as quickly as possible so that this Board can be fully constituted and get going.

So that's number one.

Number two, I understand that there are or were 40 full-time employees, 20 of whom were investigators. I believe that there are unfilled positions for those investigators.

Dr. Lemos, what I would like to ask you is, who else makes up your staff? I mean, it's all well and good to talk about the outcome of certain investigations, but if we don't have an agency that is fully staffed with the appropriate personnel and a specific mission, then the result of investigations are surely going to be delayed and questioned.

So I just want to get into the nuts and bolts of, who else are your employees, other than investigators?

And I also want to ask you, if you could -- I know this is a very long question, but I'm just trying to understand the makeup here. Is there a specific enough description of what the responsibilities and duties are of each individual Board member?

So first tell me who your employees are, and then speak about the specific responsibilities of the Board, if you would.

Dr. Lemos. Thank you for that question.

So the first part of that is who our employees are, and I'll talk about the Mission Product Team. I have trouble seeing you on the screen, so I'll just look up here at the chair.

So the Mission Product Team is comprised of investigators who actually go out to the sites, do the follow-up, do the investigation. They oversee the testing and whatnot.

We have also on the Mission Product Team recommendations staff that are assigned to help identify the gaps in guidance, regulation, procedures, policies that are related to the contributing factor.

So those are important elements of that team, as well as the recommendations

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staff and advocacy team to provide materials.

In terms of support staff, that includes human resources, general counsel, contracting, all of the other things -- administration -- all of the other things -- IT -- that are required to support and feed our investigative and Mission Product Team.

Miss Rice. Can I just interrupt you for 1 second? Are up to -- do you have the staff that you need? Yes or no?

Dr. Lemos. Not yet, but we are getting there.

So we just hired a contracting manager, and we just hired a new human resources director. We will be hiring a career managing director, as well as replacing our general counsel.

Miss Rice. And the responsibility of the Board again -- I'm running out of time -- could you just tell me, do you feel that the mission, the responsibility of the individual Board members, is specific, or does it need to be more -- better defined?

Dr. Lemos. So I believe you've asked whether or not -- so what the roles and responsibilities of the Board members are and whether that needs to be better defined. Is that correct?

Miss Rice. Yes.

Dr. Lemos. Okay. So Board Order 28, that discussion, specifically discusses the roles and responsibilities of Board members versus vis-a-vis the staff.

So as the OIG reported out, mentioned in several management challenges reports, we needed to settle this. So we have in writing and already passed roles and responsibilities that are clear so that Board members can focus on their mission.

And what their mission is in technical reviews, they review reports, they review recommendations, they vote. They engage in stakeholder collaboration and community outreach.

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They are our technical -- they lend their technical expertise and perspectives to the products, and they also assist with the strategy and the mission of the agency.

Ms. DeGette. Thank you so much. The gentlelady's time has expired.

Staff has asked me, Chairperson Lemos, if you can mute your microphone when you're not talking. I guess it's causing feedback.

And the chair will now next recognize Mr. Burgess for 5 minutes.

Mr. Burgess. I thank the chair. And I thank our witness for being here with us this morning.

I apologize for not being there in person. We have a Rules Committee hearing going on at the same time. But through the miracle of the hybrid hearing, I'm able to participate in this one.

And it was important to me because a little bit south of the district that I represent in Texas, back in 2013, a fertilizer plant blew up in the town of West, Texas.

[Audio malfunction.]

Ms. DeGette. Dr. Burgess, we've lost your audio.

We've lost Mr. Burgess. So we're going to go to Mr. McKinley, and if Mr. Burgess can get back on, then we will have him after Ms. Schakowsky.

So, Mr. McKinley, you're recognized for 5 minutes.

We apologize profusely, Chairperson Lemos.

Mr. McKinley. Thank you, Madam Chairman.

If we could start, I would like to enter into the record a statement from the American Chemistry and the American Fuel and Petrochemical Manufacturers in support of the CSB.

Ms. DeGette. Without objection.

[The information follows:]

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\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Mr. McKinley. Dr. Lemos, the role of the CSB is to investigate -- I've heard all the testimony before -- investigate accidents and determine the conditions and circumstances that led up to those accidents and identify the cause or causes so that similar events might be prevented.

For the record, is that a fair assessment?

Dr. Lemos. Yes, sir.

Mr. McKinley. Okay. But according to the CSB's website, its mission is to, quote, "drive chemical safety change through independent investigations." That's worded slightly differently than the statute.

And the phrase, quote, "drive chemical safety change" seems to suggest some form of an attempt to regulate chemical safety, which we've heard testimony that's really the responsibility of the EPA. The CSB should only be making recommendations to them.

Now, the Senate Environmental and Public Works Committee recently considered, as we've talked about, the three Democrat nominees to fill the vacancies at the CSB.

These chairmen do have different backgrounds. One of them, however, has focused her work on "advocating for regulations," close quote, and in a recently deleted tweet targeted the Trump EPA and her inability to work in a technical and in an unbiased manner.

So given the nominee's background and the extensive backlog for accident investigations and staffing shortages, and with the full awareness that you're under oath, can you ensure us that the committee, that the CSB will not attempt to take on the role of a regulatory agency and remain focused on its statutory mission of independent investigations and recommendations?

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Dr. Lemos. Yes, sir. Our mission and our mandate is to be free from political interference and to not regulate.

Now, the gaps identify recommendations and safety gaps, but they have to -- we are not a regulator.

Mr. McKinley. Were you concerned that this nominee has expressed such strong opinions about wanting to regulate? Was that a concern to you?

Dr. Lemos. I would prefer not to express my opinion regarding statements of nominees that have not been confirmed. But I can commit to you that I will maintain what I committed to the Senate, that we are a nonpolitical agency, we're not regulatory, and our job is to be safety focused and to call out the safety gaps.

Mr. McKinley. Thank you.

I yield back the balance of my time.

Ms. DeGette. I thank the gentleman.

The chair now recognizes Ms. Schakowsky for 5 minutes.

Ms. Schakowsky. Thank you, Madam Chair.

And thank you, Ms. Lemos. And I want to thank you, begin by thanking you, some positive news, that the Chemical Safety Board approved its investigation report of a May 2019 AB Specialty Silicones explosion that took place in my State of Illinois.

It was very serious. The incident killed four workers and caused serious damage to the town of Waukegan, Illinois.

So I'm very grateful for that. But I want to talk about the abilities that you have to answer the enormous issues that face you.

So exactly how many or approximately how many a year of these incident reports do you get?

Dr. Lemos. Are you asking how many incident reports meet our reporting

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criteria?

Ms. Schakowsky. I mean when someone calls up and says there has been a problem, how many of those?

Dr. Lemos. 20,000 to 30,000 per year.

Ms. Schakowsky. 20,000 or 30,000 per year. But we know -- in fact, in your testimony you said you were shocked to learn about the low staffing numbers. We've been talking about that. I understand that about 30 to 40 percent of the investigative positions were vacant this year.

And so my understanding is that you also noted in your testimony that by year's end of this year that you plan to have an all-time high number of investigators and technical specialists, et cetera, on the Mission Product Teams. And I wonder if we're going to be able to get there. And what is your plan to get there?

Dr. Lemos. Thank you for that question because more staff are certainly needed to address more of these events.

So the all-time low in staffing in recent years was in 2019, which was 8 investigators. And currently we have 14. Two new persons just joined us this past week.

So we're on track by the end of fiscal year 2023, so the end of the next fiscal year, with your support and appropriations, to have an all-time high across the Mission Product Team, and that includes the recommendations staff and advocacy, technical writers, and others that are required to put together that full report in an efficient manner and with integrity.

Ms. Schakowsky. So how many more people does that mean? How many more people do you have to have at that point?

Dr. Lemos. I believe -- well, so on the Mission Product Team or the entire staff?

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Ms. Schakowsky. Well, the entire staff. You can divide it any way you like.

Dr. Lemos. I believe the entire staff, we just submitted for 61 positions by the end of fiscal year 2023. My belief, that's low.

Ms. Schakowsky. Is there any way to speed this up so that we can get even more sooner?

Dr. Lemos. So there's a scaling issue as well. Currently most of our investigators are 12 months to 18 months new to the agency, despite them having a lot of experience. So that's why we've been investing in the processes so much to ensure a consistency.

Is there a way to speed it up? We can ramp up a plan to do that. If we were able to and funded to do so, absolutely.

Ms. Schakowsky. Let me ask you this. You said you get tens of thousands now of calls about toxic or accidents that need to be investigated.

How do you make the decision of what comes first, especially with this current shortage and limitation on the staff? What's the process?

Dr. Lemos. So that's a good question.

So of the 20,000 to 30,000 reports per year that we receive, I'll just say from the reporting event, since the reporting criteria last year, March of last year at the end, 88 actually qualified.

So we determine that based on the criteria of fatality, injuries, environmental impact. There is whether or not it's a critical driver on our list, and the potential safety impact that it has.

However, our attempt to take a range approach of our products will allow us to address all of those 88.

Ms. Schakowsky. 20,000 to 30,000 and you're saying that 88 actually qualified?

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That's it? None of those others your agency can address in any way? That's the max that gets qualified?

Dr. Lemos. So it's important -- well, it's important for us to be able to track and trend incidents and to be able to identify high risk areas.

But 20,000 to 30,000 incidents, which may not meet our reporting criteria but are reported to us, based on what we request, are important, and I do know that the regulatory agencies also track these events.

Ms. Schakowsky. Okay. I'm out of time. I appreciate that. Thank you.  
And I yield back.

Ms. DeGette. I thank the gentlelady.

The chair now recognizes Mr. Long for 5 minutes.

Mr. Long. Thank you, Madam Chair.

And, Ms. Lemos, are desk investigations different from regular investigations?  
And if so, how?

Dr. Lemos. So I'll first take your question regarding desk investigations. Desk launches are what I'm referring to, and that's actually not a formal name. We don't have that. We're still exploring the model and the method by which to have a more agile approach to addressing the range of events that we see.

Mr. Long. Okay. And why might an accidental release not warrant a deployment of investigators to that site?

Dr. Lemos. We have to prioritize the limited resources. We can't deploy to every single accident, nor is it necessary to deploy personally to each and every incident.

Mr. Long. Given a backlog of 18 investigations and new incidents occurring to investigate or need to be investigated, can work be done at the desk to determine whether or not to deploy to an ordinance, allocate resources that might be impactful for

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investigations to the industry?

Dr. Lemos. So we're maintaining an agile approach moving forward. Again, we have to codify it with the staff. I would like other Board members to weigh in as well.

But with the staff we are taking this approach that, if you're familiar with the NTSB, who we were crafted after, they complete hundreds of accidents through the help of their Federal counterparts.

And in my confirmation hearing and process, it was encouraged upon me to reconsider the degree to which we utilize our Federal counterparts to help us carry out our investigations.

Mr. Long. And what's your personal role in closing out investigative reports? And how will this shift or change if the three CSB Board nominees are confirmed by the Senate?

Dr. Lemos. Just to make sure I heard the question, if they are not confirmed?

Mr. Long. Pardon?

Dr. Lemos. Just to confirm the question, you are asking what is going to be the impact if they are not confirmed?

Mr. Long. No, if they are confirmed.

Dr. Lemos. We will continue forward just as we are now with closing investigations. There will be some training time and some education when you have three new Board members at the same time. Obviously, that's a challenge to take on. But we will have increased advocacy and community engagement, and that's critical to the success of our agency.

Mr. Long. Okay. So I'm going to repeat the question to make sure that you got it and I got it, and that might have been the way that you answered.

But my question was, what is your personal role in closing out investigative

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reports, and how will this shift if the three CSB Board nominees are confirmed by the Senate? What's your personal role in that?

Dr. Lemos. My personal role, the difference when there's just a Board of one versus a Board of 4, correct?

Mr. Long. Uh-huh.

Dr. Lemos. I will have other perspectives. We will debate the matters in a live forum. We will have other perspectives. That's going to be the difference in closing those out.

Mr. Long. Okay. I'm having a little trouble with the sound system in here picking up everything you're saying, but I appreciate it.

The CSB needs the five Board members mandated in your enabling statute, and the Board members should have a broad range of applicable experience and expertise, including experience in the operations, processes, and procedures typically applicable in commercial chemical facilities.

If you could create the most well-qualified Board, what applicable experience and expertise do you seek out in those Board members?

Dr. Lemos. So the question is -- and I'm trying to speak louder and into the mike, I moved it. If you can hear me?

Mr. Long. It's part on my end, but that's fine. I've got an issue, so that's fine.

Dr. Lemos. Excellent.

So the type of experience that is mentioned in our enabling legislation really just describes the range: safety management systems, human factors, toxicology, those familiar with chemicals. It takes a range of backgrounds, and it's very rare for someone to have all of those together.

Mr. Long. Okay. Thank you. And I appreciate your being here today.

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And I yield back, Madam Chair.

Ms. DeGette. I thank the gentleman.

The chair now recognizes Mr. Tonko for 5 minutes.

Mr. Tonko. Thank you, Madam Chair.

And certainly as the subcommittee chair on the standing committee of environment and climate change, I have great interest in the operational qualities of CSB.

So despite its significant impact on the safety of workers and communities, CSB has a history of governance challenges. Specifically, Board infighting and long stretches without steady leadership have undermined the agency, to say the least, over the years.

These Board-level issues have led to significant challenges for staff at the agency, including high attrition, low morale, and difficulty attracting new hires. As we have heard today, three new Board members will hopefully soon be joining this agency.

So, Chairperson Lemos, I know you would like to prevent history from repeating itself. So how do you intend to integrate and involve these new members so that the agency does not fall into that power-sharing squabbling that has hamstrung it in the past?

Dr. Lemos. Thank you for that question, which I believe is how do I intend to prevent a repeat of what has been occurring for -- since the inception really of the CSB.

I met the CSB at a time when it seemed to be more stable, around the 2005-2006 timeframe, and appreciated how they worked as colleagues together.

So the first thing that I did when I joined the agency was realize that we have a pressing need to address the OIG's management challenges, and that was my top priority last year, and we finalized that, which was to provide the structure for the Board members to know what their roles and responsibilities are, to provide them the support staff, and to help them execute that. That is what I did.

Mr. Tonko. Thank you.

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And, Chairperson Lemos, I assume you have examined some of the root causes of the friction that has undermined the functionality in the past.

So can you share some of your insights into why the Board has had these management problems in the past and what you intend to do so that these mistakes are not repeated under your leadership, particularly given that new Board members will be arriving and arriving soon?

Dr. Lemos. Well, it's possible that memorializing these changes in CFRs, such as the NTSB has, would help.

In our benchmarking we use the DNFSB, we use the NTSB and other agencies in terms of how we structure decisionmaking and budgetmaking. Perhaps codifying that would allow for these Board orders, which are internal policy, to settle them.

Mr. Tonko. Thank you.

Earlier this year you approved a revised Board Order 28, which set new terms for Board member responsibilities, budgeting power, and other related areas.

While I understand that this new Board order was intended to respond to some of the criticisms of CSB identified by EPA's Office of Inspector General, some of your critics have called this a power grab because the action was undertaken during a, I quote, "quorum of one."

Will you revisit Board Order 28 once the new members are on Board?

Dr. Lemos. So the question is whether we will revisit Board Order 28 once new Board members join.

I want to establish that our Board orders, as I found them when I joined, were not in alignment with our enabling legislation. They were not empowering the Board members to actually carry out their functions and staff to carry out their functions.

So what I did, if someone says it's a power grab, the changes in Board Order 28

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have nothing to do with a quorum of one. It's simply allowing the Board to carry out their functions successfully and staff to carry out, with responsibility, their functions.

Mr. Tonko. Okay. So then let me ask this. Will you commit to ensuring that the new members are empowered to both carry out their duties and revise Board orders by a majority vote?

Dr. Lemos. Absolutely. Board orders should be a democratic process.

Mr. Tonko. So that you would commit to ensuring that they're all recognized and having their input?

Dr. Lemos. All Board orders should be in compliance with the law and should be voted on to the extent that we have the room, right?

Mr. Tonko. Thank you. Yes, thank you.

Look, we all want to avoid the issues that have prevented CSB from performing effectively in the past. So I do look forward to seeing the agency get back to excellence.

And with that, Madam Chair, I yield back.

Ms. DeGette. I thank the gentleman.

The chair now announces that the committee will be in recess for 10 minutes.

[Recess.]

[12:03 p.m.]

Ms. DeGette. The committee will come to order.

And the chair now will note that Mr. Burgess has solved his technology problems by appearing in person, and she will recognize him for 5 minutes.

Mr. Burgess. I thank the chair.

Thank you, Dr. Lemos, for being here with us today. I will tell you, I have been looking forward to your appearance today because the experience I had with -- it's not in my district, but just outside my district in the town of West, Texas, several years ago. I was interested in your responses to Mr. Tonko's questions because that was largely the type of question I had.

When I visited West, Texas, shortly after the accident, I mean, you name the Federal agency and they were on site. So you had the FBI, you had DOJ, you had ATF, you had -- I didn't see Customs and Border Protection, but I suspect they were there somewhere. FEMA was very much in evidence.

And all of these agencies collected at this Emergency Operations Center, and there's no Chemical Safety Board. And yet they were there, but they didn't interact with the other agency personnel who were there doing the investigation and taking -- getting the evidence.

In fact, when FEMA took me on an automobile trip through the neighborhoods that were affected, and seeing all the houses in an unusual type of situation because the roofs were lifted off the houses and they came right back down so there was no vertical -- it was only the vertical displacement, no horizontal displacement. But, obviously, the houses were destroyed in that process.

The Chemical Safety Board was not part of that, but they were in a trailing car, like several cars behind, and I never understood quite why, why we wouldn't all be working to

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the same end.

Presumably, if the FBI finds something interesting, then the Chemical Safety Board might find it interesting as well, or the Chemical Safety Board might have a question that would be important for the law enforcement branch of the Federal Government to know.

So can you help me there? Are you more aligned now where there's less likely to be that silo? Because it was almost like there was a physical silo around the Chemical Safety Board that day.

Dr. Lemos. Thank you for that question.

The siloing, just to repeat, the siloing, why was the CSB not working intimately with the other Federal agencies and local, and why was their presence not noticed. And that is something we have been focusing on by building stronger coalitions with our Federal counterparts and local.

I did not understand that as well. When I joined the agency, it was very foreign to me as a process. So I can't explain why that had occurred in the past.

But I can tell you that moving forward we have already started to interact much more closely, not just with our Congress and the local representatives, the local responders, immediately to ensure.

And OSHA and EPA, we have contacts we started last year to say who's the regional, who's the Federal, here are the phone numbers.

And that's the type of connection that we are building moving forward.

Mr. Burgess. One of our counsels here on the subcommittee, I don't think he is here today, but referred to the Chemical Safety Board, when I asked him a question about it many, many years ago, he said it's like the NTSB for chemical accidents.

So you have the National Transportation Safety Board if there's an airline accident or train accident. The Chemical Safety Board performs that same function if there's a

chemical incident, which seemed like a good idea.

But if indeed patterned after the NTSB, they probably work pretty well with their counterparts in law enforcement, and in the case of air traffic, with the air traffic controllers and everyone who would be involved in providing them the data. It seems like that's a good model to follow.

Dr. Lemos. Absolutely, the NTSB is a good model to follow in that respect.

One difference I will point out. In the chemical industry, it's much more distributed in terms of the regulation oversight than the aviation industry is.

So if you look at the other transportation domains, you will see some of the same fragmentation and extra effort required to pull those entities together. Like a bridge collapse or a pipeline explosion, you're going to have other local entities.

But it's a great model. We need to have that presence. We need to have that collaboration and strengthen it.

Mr. Burgess. Well, I appreciate your testimony today and your service to the Safety Board.

And I yield back.

Ms. DeGette. I thank the gentleman.

The chair now recognizes Mr. Peters for 5 minutes.

Mr. Peters. Thank you, Madam Chair.

Some of our colleagues we're hearing them say that the CSB should not be using its scarce staff resources to make recommendations or issue regulations to protect public health and public welfare, but that's a key component of the CSB's mission, and preventing future incidents has to remain a top priority.

Prior to my time in public office, I worked at EPA for a short time on toxic substances and later spent 15 years as an environmental lawyer. I've got a keen interest

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in CSB's role in updating EPA's Risk Management Plan, or RMP, requirements.

Under the RMP, known also as the Chemical Disaster Rule, industrial facilities are required to follow rules that help prevent accidental releases of chemicals that can cause death, injury, property or environmental damage, or require evacuation of surrounding communities.

Now, EPA is now in the process of updating the RMP rule, and given CSB's years of identifying the root causes of exactly the kinds of chemical disasters the RPM is intended to prevent, I think CSB has an important role to play.

Chair Lemos, I understand you sent a letter to EPA in July with high-level recommendations for how to update the RMP. Are you preparing to give more detailed recommendations during the public comment period on the proposed RMP rule?

Dr. Lemos. I want to make sure I hear you correctly because it's a little bit muffled. But you're asking me if I'm prepared to make more specific recommendations to RMP than we have in the past? I know that we --

Mr. Peters. Yes, as part of the public comment period.

Dr. Lemos. So we were engaged in the listening sessions -- I'm hoping I'm understanding your question correctly -- but we were engaged in the listening sessions over the past several months. I understand that OSHA is also going to have similar listening sessions for PSM. We reiterated three specific recommendations that have been open with regards to RMP for a long time and that are critical; two on chemical reactives and one on inherent safety design in the PSM process.

Mr. Peters. Okay. Among other things, I understand that you recommended that EPA consider mandating evaluations for inherent safety, which I gather means implementing inherently safer product technologies and practices that permanently eliminate or reduce potential hazards; for example, minimizing the amount of chemicals

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on a site. And I imagine that CSB has a long list of inherently safer technologies and practices.

Are you prepared to provide all that information to the EPA?

Dr. Lemos. Absolutely. In fact, in preparation for the letter to the EPA regarding inherent safety, which we reiterated -- and I'm a strong believer in the life cycle and design in inherent safety at all levels of the process -- I counted how many -- or I worked with our staff to count how many recommendations we've made to entities, industry, any recommendation that was related to inherent safety, and that sort of data I think would be very useful and powerful.

Mr. Peters. Great. So closely related to the RMP program is the Occupational Safety and Health Administration's, OSHA's Process Safety Management program. That PSM program is similarly focused on preventing the mishandling or release of highly hazardous chemicals. To my knowledge, OSHA has not announced its intention to update its program the way EPA is updating its RPM program.

In the absence of an active effort by an agency to update a program like this, what do you see is the advocacy role for CSB to push for regulatory changes that could reduce the risk of chemical disasters for workers?

Dr. Lemos. So some of the efforts -- you're asking about specifics for PSM that we have been recommending, just to confirm?

Mr. Peters. Yes. How would you want to effect the PSM, right.

Dr. Lemos. So we, last year, myself and some of the new staff, met with OSHA and EPA to speak about both of their programs and the most highly prioritized recommendations. After the explosion in Beirut, we also reiterated some of our recommendations for PSM that came out of the West, Texas, event.

So that is the PSM modernization, and to take into account similar things that

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we're asking for EPA to account for as well, to include reactivities.

So we will do a comprehensive analysis. We have an advocacy team. And we will also look at what are the gaps in the PSM.

We already have an analysis on that. I don't have it in front of me, but I would be absolutely pleased to provide it to you.

Mr. Peters. I would love if you could provide it to the subcommittee. I just urge you to work closely with EPA as they update the rule and make sure they have all of the relevant information to prevent future chemical incidents.

And my time has expired. I yield back. Thank you.

Ms. DeGette. I surely thank the vice chair.

I'm now pleased to recognize Mr. Palmer for 5 minutes.

Mr. Palmer. Thank you, Madam Chairman.

Ms. Lemos, my colleague, Mr. Peters, was talking about the EPA, and I want to ask some questions related to that in the context of who investigates the investigators.

The EPA was involved in a couple of major chemical spills, the Gold King Mine in Colorado, which, frankly, the remedy that should have been afforded to the people impacted by that hasn't yet been afforded them. But there was another EPA-caused spill in Georgia along the -- in Greensboro, Georgia, that EPA I think attempted to cover up.

Does the Chemical Safety Board have a role or even a responsibility to engage in the investigations of spills like that where it's caused by another government agency?

Dr. Lemos. So I want to make sure I understand your question. I'm having a little difficulty hearing.

Mr. Palmer. Yeah, it was really long.

Dr. Lemos. So you're asking if the CSB has a role in investigating accidents -- and

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I didn't hear the rest of the sentence. Sorry.

Mr. Palmer. Accidents caused by another Federal agency. In this case, the EPA, they caused the Gold King Mine spill that dumped millions of gallons of toxic water and polluted zinc and other chemicals, cadmium, lead, down the Animas River, that impacted Indian reservations, impacted everything pretty much downstream.

A few weeks after that they were involved in another spill, in Greensboro, Georgia, which my understanding is they attempted to cover that up. It was just a few weeks, like I say, after the Gold King Mine spill.

So who investigates the investigators? Would the Chemical Safety Board have a role in going in to investigate something like that?

Dr. Lemos. So I don't know all the particulars for the events that you're describing, but if it meets our rules for deployment or in our scope, in the CSB scope, it is an inadvertent release that has significant impact for --

Mr. Palmer. Reserving my time.

Ms. DeGette. Would the gentlelady suspend?

Please, all members online, please make sure you're on mute.

The gentleman may continue.

Mr. Palmer. Thank you, Madam Chairman.

Well --

Dr. Lemos. I can answer.

So the Chemical Safety Board has the responsibility to investigate. That doesn't mean the EPA does not investigate as well, similar to the NTSB and the FAA. I worked on both sides of the fence.

But the CSB is an independent investigation that is not focused on the oversight or punitive element. It is to determine the root cause, as we've heard many of you say

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today.

Mr. Palmer. Well, in the case of the EPA, they denied responsibility I think for the Greensboro spill. And I would just think that the Chemical Safety Board would have some responsibility. It might be a jurisdictional issue that would be argued.

But sometime it might not be a bad idea for those who are responsible for that, who normally would be investigating, to be at least under the -- in some way under the investigative powers of another agency.

Dr. Lemos. So there are some circumstances -- and we're facing some of those today -- where some parts of the EPA have jurisdiction because it could be of a criminal nature. Just as if there is a malicious intent, ATF would take over.

So I'm not positive, but there are some circumstances where we defer to other Federal agencies in those circumstances. We still continue to investigate.

Mr. Palmer. Well, I know you're a Board of one right now, but I think you may have been on the Oversight Committee when we were looking into the employee dissatisfaction, what was going on with the Board, and the retaliation against whistleblowers.

Are there any plans in place to improve employee satisfaction, to protect whistleblowers and others who work at the Chemical Safety Board?

Dr. Lemos. Absolutely. In terms of employee engagement and maintaining, I believe that having career staff stability, stability at the Board member level, stability at the leadership level, and commitment for funding from Congress is super important to helping staff members feel appreciated for their contributions and feel that their progress is meaningful to the world.

Mr. Palmer. I thank you for your answers.

Madam Chairman, in regard to my line of questioning about who investigates the

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investigators, I do think it's something that this committee might ought to consider looking into, considering the fact that I'm not sure that the remedies that were expected as a result of the Gold King Mine spill have been implemented to the satisfaction of the people who were impacted by it.

And with that, I yield back.

Ms. DeGette. I thank the gentleman for the suggestion, and Mr. Griffith and I will discuss that.

The chair now recognizes Ms. Schrier for 5 minutes.

Ms. Schrier. Thank you, Madam Chair.

And thank you for being here today, Chair Lemos.

CSB has a long history of working with other agencies to conduct its investigations, as we've been discussing today. In fact the EPA, OSHA, Department of Homeland Security, DHS, all have some jurisdiction over chemical facility management. So it's critical that CSB maintain productive relationships with those agencies.

However, CSB's role to investigate the root causes of these incidents is unique and distinct from the roles of EPA, OSHA, and others. So while there may be opportunities for efficiencies in working together, I am concerned that CSB's understaffing has led to an overreliance on findings from other agencies.

So could I ask you, Chair Lemos, how do you see CSB's role versus that of the EPA, OSHA, and DHS when it comes to industrial safety?

Dr. Lemos. The roles are very different. Working together and collecting information, each of those investigations are for different purposes, and the role of the Chemical Safety Board is an independent, nonregulatory investigation.

This model works very well at the NTSB, where you take the information from the company, from the different Federal agencies. You don't rely on them for their

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conclusions. You take the facts, and with those facts, we come up with our own findings and conclusions.

Ms. Schrier. And do you feel like you have the appropriate support to take that information and come up with independent findings? And I understand the fact finding together, but I would imagine you have slightly different angles. Can you talk about that a little bit, EPA versus OSHA versus DHS?

Dr. Lemos. I don't know why I'm having a little bit of a challenge hearing. So the question is, can I talk about the difference in the perspective of the findings for those three different agencies?

Ms. Schrier. Well, so if you go in together and you gather facts together, do you feel like -- you're the only person on the Board -- do you feel like you have enough support to independently come up with the recommendations?

I mean, I guess here is how I would state that question. Like, how do you balance the efficiencies of working together, gathering that data together, and working with other agencies while also ensuring your own independence? And do you have enough support to do that?

Dr. Lemos. We certainly are asking for more support. That's the theme that we gather today. I hope that everybody gathers that we need more support. OSHA and EPA certainly have far more staff to carry out their work.

We exchange information. If we collect information, for example, and interview together, the information that we ask is not used for punitive purposes. So it has to be collected separately by those other agencies.

Our staff is incredibly knowledgeable. They are able to sift through the facts and the circumstances, and they continue to ask additional questions. So it's not relying on any one source of report when we are working together and collaborating with our

Federal counterparts, despite the fact that they're regulators.

Ms. Schrier. Just because of my time constraints, also I just wanted to touch on the importance of public comment. And I wondered if you could comment on reinstating public comments, because we have heard that, according to the July 2021 stakeholder letter, that United Steelworkers and other organizations did not have opportunities to provide public comment at two recent meetings, March 5 and April 2.

Can you touch on that, tell us if that is true or not? Are you providing notice of your meetings? And if not, why not? And also, can you commit to providing a 60-day notice for when your meetings are coming up so that there is transparency and public comment?

Dr. Lemos. Yes. So I'll be efficient.

Two things. One is the notice. Sixty days is in our internal policies. I believe it's 2 days or 10 days, I think 2 days in our CFRs. We have been doing a better job at providing advance notice.

In terms of public comment, it's important, and, in fact, even during public meetings, we have been receiving public comments and responding to them, just not in the verbal format. We have emails when we respond to their questions.

So I think it's really important to distinguish between a public meeting where we discuss Board issues, business issues, which is unheard of at the NTSB, frankly, and Board meetings where the public can have insight, similar to this meeting where the public can view and have insight into the process but not be weighing in.

So I do believe in enhanced transparency, and that's what our public meetings are doing. We have been putting all of our public meeting notes and comments on the website, the transcripts in verbatim, my specific notes that we speak.

So we will be addressing that, and I believe that additional Board members will

help with that community engagement and public voice.

Ms. Schrier. Thank you.

I yield back.

Ms. DeGette. I thank the gentlelady.

The chair now recognizes Mr. Dunn for 5 minutes

Mr. Dunn. Thank you, Madam Chair.

I yield my time to the ranking member, the Honorable Morgan Griffith.

Ms. DeGette. The gentleman is recognized.

Mr. Griffith. I appreciate that. Thank you. I appreciate it.

Oh, let's go ahead and finish up that last question. Part of the question dealt with steelworkers, and you dealt with all kinds of things, but you didn't talk about that specific situation.

Could you -- because I think my colleague would like to know -- can you specifically reference the complaint by the steelworkers that they didn't have an opportunity to be heard?

Dr. Lemos. So I have had numerous engagements with the USW via stakeholder meetings on video as well as through letter. I haven't heard a complaint specifically, only from the USW, that they were not allowed to comment.

Mr. Griffith. I suspect there will probably be some questions, follow-up, because it wasn't my area that I had prepared for; but I suspect there will be some questions after this hearing in regard to that matter.

Let me move on. At the beginning of the questions, you were asked by Chair DeGette about your plans for removing the backlog and addressing incoming cases. You promised to submit that plan for the record.

I'm curious about this plan. Did you approve some of it? Did you approve all of

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it? What was your role in preparing this plan to deal with the backlog?

Dr. Lemos. Thank you.

I have been pushing for a resource allocated plan since I joined the agency, and because it's important and because the community, not just our leaders here, but the community and the stakeholders deserve our accountability to the plan.

Mr. Griffith. So as a part of that then, you did approve this plan that's coming forward?

Dr. Lemos. Yes, sir.

Mr. Griffith. And can you share with us any of the details you remember of the plan that you approved?

Dr. Lemos. Well, I can tell you the four that are coming up for closure, and I've tasked this plan and am working that with my managing director, who is sitting right behind me, who will be presenting that to you all.

Mr. Griffith. Okay. I appreciate that.

Regarding extreme weather, setting aside that the statute is agnostic about causes that you investigate, how much is the climate extreme weather work you told Chair Pallone that you're doing, how much is that taking away from the investigations that you need to do and to complete?

Dr. Lemos. So today we've only had one completed investigation that was attributed to extreme weather, which was Arkema. There are other investigations in the past that we could go back and find.

We have one other currently which was due to extreme weather that's under investigation. That's BioLab.

So as they come up, we're going to attend to them. So I can't say that we're -- we're not taking a -- time away from any other investigation.

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Mr. Griffith. Okay. So I guess my -- and maybe I misunderstood, That's certainly possible, which is why we have hearings to try to sort this stuff out.

My understanding was that you all were also working on some things that people ought to be doing, recommendations to prevent extreme weather having consequences in the future for other facilities. Was I correct in that?

Dr. Lemos. So there are no staff that are currently tasked to studying extreme weather or any other specific thing because --

Mr. Griffith. Except as an outgrowth of the two investigations you just mentioned?

Dr. Lemos. I'm sorry?

Mr. Griffith. Except as an outgrowth of the two investigations you just mentioned?

Dr. Lemos. Correct, correct, and our GAO report which we had -- the GAO report which we had to engage with, and their report is coming out, and that involves extreme weather, climate change, and the EPA and the CSB and a number of other agencies.

Mr. Griffith. Okay. I just wanted to get that clarified.

With that, I will yield back to my colleague, Dr. Dunn.

Mr. Dunn. Madam Chair, I have no further questions. I yield back the remainder of my time.

Ms. DeGette. I thank the gentleman.

The chair now recognizes Mr. Joyce for 5 minutes.

Mr. Joyce. Thank you, Chair DeGette, for having this subcommittee hearing today.

And thank you to Chair Lemos for appearing today.

Government entities, like the U.S. Chemical Safety and Hazard Investigation

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Board, keep our constituents safe from industrial and environmental accidents. That is why it is so critical for the missions of these institutions to be well defined so that they can execute the tasks that are given to them.

Chair Lemos, the CSB's mission -- and I'm quoting from your mission statement -- is to drive chemical safety change through independent investigations to protect people and the environment. That's a fairly broad mission statement.

What is CSB's process for writing a mission statement?

Dr. Lemos. So I believe that mission statement, along with the strategy, was crafted by a previous Board member, and that this goes back to the process of the mission, the vision, and the strategy.

Then that is up for renewal, in which case I sincerely hope to have other Board members to work through that with me.

I can't tell you the genesis of that particular mission statement, but I will work on that, and I can get back to you.

Mr. Joyce. Thank you. I would appreciate the follow-up in that regard.

My question, my second question for you, is that the government works best when it is small and yet effective. Attempts at government expansion or overreach inevitably end up in waste, low productivity, and failure of the original mission, even an ill-defined mission.

I want to be clear that CSB's mission is critical, which is why it needs to be narrowly and clearly defined to give the best chance for success.

If President Biden's three new CSB member nominees are confirmed, how do you see the changing the mission statement, as you just addressed, on the CSB-based backgrounds of the three new appointees?

Dr. Lemos. I can't speak to how they will influence the mission statement, in

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which ways, because I haven't personally met them, but I can tell you that I will ensure a nonpolitical process and ensure that the mission is scoped appropriately, because already now, as you know, we need to prioritize which events we focus on.

Mr. Joyce. Couldn't it be problematic that maintaining this wide-ranging mission statement could be interpreted by different members, depending on what the new member's agenda might be?

Dr. Lemos. It's possible, yes.

Mr. Joyce. Do you think it is imperative that a new mission statement is crafted, a concise and narrowly focused mission statement?

Dr. Lemos. I believe that we need to be in alignment with our enabling legislation, which is pretty broad. I believe that through specifically scoping and detailing what we will prioritize will help the entire community.

Mr. Joyce. On that note, the Senate legislative history states: "The principal role of the new Chemical Safety Board is to investigate accidents to determine the conditions and the circumstances that led up to the event and to identify the cause or causes so that similar events might be prevented."

Do you believe that the CSB is effectively carrying out that role currently?

Dr. Lemos. I believe that we are working towards fulfilling our mission, but that we have a long way to go to fulfill that completely.

Mr. Joyce. I concur. It seems like there is a long way to go.

And we've already heard in this hearing about the backlog of accident investigations and the continued need for them going forward.

Would the CSB, as it is currently proposed to be made up, be effective for those responsibilities along with the current obligations?

Dr. Lemos. So the question is, if we staffed up according to the staffing plan,

which we will provide, will we be effective in meeting our mission?

Mr. Joyce. Yes.

Dr. Lemos. Yes.

Mr. Joyce. Thank you, Chair DeGette. I think this is an important hearing. I thank you for convening it. I yield my remaining time.

Ms. DeGette. I thank the gentleman, and I thank all of the members.

This now concludes the hearing. And I want to thank, again, I want to thank the witnesses for participating in this hearing.

I want to remind members that, pursuant to committee rules, you have 10 business days to submit additional questions for the record to be answered by witnesses who appeared before the subcommittee.

And I'll ask the witness to respond promptly to any questions should you receive any and also to the commitment you made to submit the various plans.

We want to insert in the record by unanimous consent a letter from the ACC and AFPM to me and to Representative Griffith dated September 28, 2021; a letter from Representative Pallone and others to the CSB dated May 20, 2021; a letter to the CSB to Representative Pallone and others dated June 10, 2021; and a letter from 22 labor, environmental, community, and scientific organizations to CSB dated July 8, 2021. This is the letter several members referred to as the steelworkers letter.

And without objection, so ordered.

[The information follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Ms. DeGette. Chairperson Lemos, the letter from the 22 organizations is comprehensive in their recommendations to many of the challenges you're facing at CSB. Does the agency plan to provide a formal response to that letter?

Dr. Lemos. Yes. Thank you for clarifying that point, because that certainly helps the questions.

We have already responded to them, but we would not respond prior to our continuing our conversation with you and being here today. Knowing that this was up and coming, we feel like that you are our priority to communicate with.

But we already have responded and engaged back. In fact, we had engagements with them several times this spring and last fall. So I -- we told them that we looked forward to continued engagement with them.

Ms. DeGette. Super. I would ask if you could, please, Chairperson Lemos, if you do respond in writing to the organizations, if you could provide a copy to this committee, that would help us in our investigation.

Dr. Lemos. Absolutely. We can immediately provide you a copy of our response after we receive the letter and any details moving forward.

Ms. DeGette. We appreciate that. And, again, we appreciate your agency's continued cooperation. As you can see from both sides of the dais, we're all eager to help you in fulfilling your important public safety mission.

And with that, this hearing is adjourned.

[Whereupon, at 12:37 p.m., the subcommittee was adjourned.]