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4 MODERNIZING THE BUSINESS OF ENVIRONMENTAL REGULATION AND

5 PROTECTION

6 WEDNESDAY, JULY 23, 2014

7 House of Representatives,

8 Subcommittee on Environment and the Economy

9 Committee on Energy & Commerce

10 Washington, D.C.

11 The Subcommittee met, pursuant to call, at 10:00 a.m.,  
12 in Room 2322 of the Rayburn House Office Building, Hon. John  
13 Shimkus [Chairman of the Subcommittee] presiding.

14 Members present: Representatives Shimkus, Murphy,  
15 Latta, McKinley, Bilirakis, Johnson, Tonko, Green, McNerney,  
16 Schakowsky, Barrow, Matsui, and Waxman (ex officio).

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17           Also present: Representative Yarmuth.

18           Staff present: Nick Abraham, Legislative Clerk;

19 Charlotte Baker, Deputy Communications Director; Leighton

20 Brown, Press Assistant; Jerry Couri, Senior Environmental

21 Policy Advisor; Brad Grantz, Policy Coordinator-O&I; David

22 McCarthy, Chief Counsel, Environment and the Economy; Tina

23 Richards, Counsel, Environment and the Economy; Chris Sarley,

24 Policy Coordinator, Environment and the Economy; Jacqueline

25 Cohen, Democratic Senior Counsel; Caitlin Haberman,

26 Democratic Policy Analyst; and Ryan Schmit, Democratic EPA

27 Detailee.

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28           Mr. {Shimkus.} I would like to call the hearing to  
29 order, and first, I want to ask unanimous consent that all  
30 members' opening statements can be submitted for the record.  
31 Without objection, so ordered. And I want to welcome the  
32 panel and I want to take a request, a personal request, to  
33 recognize one shadow and one intern. Alexa is from Taiwan.  
34 She has been interning in my office all summer. Wave, Alexa.  
35 And Reza is from Albania, Kosovo, and she just joined to  
36 shadow with me today. And I can't pronounce the name, her  
37 last name. But it is a town. What is it? Gjakova. So  
38 welcome, and this is her first chance to be in Washington and  
39 see the legislative process. And we are glad to have her  
40 with us.

41           I will now recognize myself for 5 minutes for an opening  
42 statement.

43           Every day we hear about innovations in system  
44 communications and logistics that make businesses more  
45 productive. Some of this modernization is technological and  
46 some is just common sense. Today, we explore these system  
47 innovations in the context of environmental regulation,  
48 modernizing environmental programs and making them more

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49 efficient.

50       The states and EPA are partners in the business of  
51 working toward cleaner air, water, and soil because the  
52 states implement a significant percentage of the  
53 environmental laws, and EPA relies on the states for the  
54 implementation of its programs as Ranking Member Waxman will  
55 remind me almost every time we have a hearing. So I am  
56 learning. I have been listening, Mr. Waxman. In this age of  
57 declining budgets and workforce, states, EPA, the regulated  
58 community, and the public must work together to find ways to  
59 improve environmental protection while spending less  
60 resources.

61       A great example of Congress working with the EPA and the  
62 regulated community to modernize and streamline the way an  
63 existing statute is carried out began with enactment of  
64 Public Law 112-195, the Hazardous Waste Electronic Manifest  
65 Establishment Act. Negotiations on this bill involved  
66 members from both parties, from several committees, and from  
67 House leadership, and from the Senate. Once a deal was  
68 reached, it passed the House and the Senate without a single  
69 dissenting vote. The President signed it into law on October  
70 5, 2012. This Act authorizes EPA to employ a system that

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71 uses electronic manifests to track shipments of hazardous  
72 waste, under Resource Conservation and Recovery Act, known as  
73 RCRA, Subtitle C, from its generation to its ultimate  
74 disposal. This streamlines the current process, which  
75 requires paper forms and replaces the millions of paper  
76 manifests produced each year.

77 Today, we will hear from the Commissioners of three  
78 states who will share their stories about how their states  
79 analyze their programs to determine how they can boost  
80 efficiency while maintaining and improving environmental  
81 protection. Arizona applies a management principle used in  
82 the private sector called Lean which is centered on  
83 preserving or creating value using fewer resources. The  
84 process improvements made in Arizona as a result of the Lean  
85 analysis has resulted in a decrease in the average permitting  
86 timeline by more than 60 percent and reduced the average time  
87 for a facility to return to the compliance by more than 50  
88 percent. That means greater and faster protection of the  
89 environment and shortening the wait time for the regulated  
90 entity to use the permit to carry out their business  
91 strategy. Government and permit holders both win.

92 Arkansas will give us examples of its modernization

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93 efforts including how state site inspections are now using  
94 electronic tablets to record inspection data and allow the  
95 regulated community to sign the forms at the time and the  
96 place of the inspection. The permit holder obtains the  
97 inspection form on the spot which means they will know  
98 immediately what they need to fix and will allow them to  
99 return to compliance much more quickly. Again, most  
100 everybody is a winner.

101       Massachusetts will tell how it plans to use geographic  
102 information systems and mapping software to provide easy  
103 access to site cleanup documents to enable realtors and  
104 investors to more easily identify sites that are available  
105 for redevelopment. This facilitates real estate  
106 redevelopment. Economic growth and environmental cleanup are  
107 both improved.

108       And finally, Bill Kovacs will give us the perspective of  
109 the regulated community. We expect Bill to discuss how these  
110 initiatives affect the bottom line of businesses across  
111 America and what further modernization steps could be taken.  
112 We welcome all our witnesses and look forward to their  
113 testimony.

114       [The prepared statement of Mr. Shimkus follows:]

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

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116           Mr. {Shimkus.} I yield back the balance of my time and  
117 recognize the ranking member of the subcommittee, Mr. Tonko,  
118 for 5 minutes.

119           Mr. {Tonko.} Thank you, Mr. Chair, and welcome to all  
120 of our panelists. Today's hearing gives us an opportunity to  
121 examine innovative new tools to enable state and federal  
122 environmental regulators to accomplish their mission of  
123 environmental and public health protection more efficiently  
124 and more effectively. Smart metering, advanced data  
125 management and mapping tools and advanced monitoring devices  
126 can provide state and local governments with the means to  
127 deliver significant benefits to the public. We are all aware  
128 that budgets are tight and that there are many demands placed  
129 upon state and local governments. We have been asking states  
130 to do more with less for far too long. New tools can be  
131 helpful, but they come at a price. Without funding to  
132 procure these new tools and to train people to use them, we  
133 are simply imposing another mandate.

134           We should incentivize and support agencies' use of  
135 innovative technologies to achieve greater environment and  
136 public health protection. I believe that the initial



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137 investment will pay for itself in a rather short period of  
138 time. For example, water leaking from mains represents  
139 significant loss of revenue and the loss of a resource that  
140 is growing scarce in some areas of our country. New  
141 monitoring technologies can identify leaks in water mains  
142 enabling municipalities to target maintenance and repairs of  
143 infrastructure to areas of greatest need. Advanced  
144 monitoring devices can identify spills or pollution problems  
145 when they first occur, enabling authorities to act quickly to  
146 mitigate the problem and avoid costly cleanups and risks to  
147 our public health.

148       A clean environment is not a luxury. It is a necessity.  
149 We have years of experience to demonstrate that communities  
150 do not have to sacrifice public health and the environment  
151 for economic growth. And a clean environment is not achieved  
152 automatically as a by-product of a growing GDP and expanding  
153 job base. Unfortunately, common essential resources--land,  
154 air and water--are often used as free disposal areas by  
155 industry when there are no standards to define and require  
156 pollution controls. We learned that lesson many years ago.  
157 China is learning it today. The impressive economic growth  
158 in job creation in China in the absence of enforceable

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159 environmental protection standards has led to serious air,  
160 water and land pollution in many of their industrialized  
161 areas. It is leading to health problems, resource shortages,  
162 and in some areas, it has led to companies offering hardship  
163 pay to attract skilled people.

164 Modernizing environmental regulation implies that we  
165 will move forward, not backward, on environmental protection.  
166 The public relies on state and federal environmental  
167 regulators to protect their interests. EPA and their partner  
168 agencies in the states are making decisions that will have  
169 impacts far into our future. Over the years we have seen  
170 industries come and go. That is the nature of a dynamic  
171 economy. But we have never lost our need for productive  
172 land, clean air and clean water. Tools to modernize  
173 environmental regulation should be evaluated to determine  
174 whether they indeed help agencies to achieve greater public  
175 health and environmental protection, better recordkeeping and  
176 Web-based reporting of inaccurate or incomplete information  
177 achieves nothing. Fast permitting may benefit the permit  
178 applicant, but without robust evaluation of a proposed  
179 project, there is no guarantee that a new business will be  
180 the type of good neighbor that truly benefits an entire

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181 community.

182 I look forward to hearing about the initiatives that are  
183 underway in the states from our distinguished panel of  
184 witnesses. I thank you all for being here this morning to  
185 share your experiences and ideas with the subcommittee. My  
186 bottom line, if it improves our environmental stewardship, so  
187 be it. Let us go forward. If haste makes waste, if it gives  
188 us a worse outcome and avoids the mission statement to which  
189 we are all assigned, no go. Thank you very much.

190 [The prepared statement of Mr. Tonko follows:]

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

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192           Mr. {Shimkus.} I thank my colleague. I turn to the  
193 Republican side to see if anybody wishes time for an opening  
194 statement. Seeing none, the Chair now recognizes the ranking  
195 member of the Full Committee, Mr. Waxman, for 5 minutes.

196           Mr. {Waxman.} Thank you very much, Mr. Chairman.  
197 Technology has an enormous potential to improve environmental  
198 protection. From the catalytic converter to smokestack  
199 scrubbers, technological advances have brought us cleaner  
200 cars and cleaner energy. Now mobile technology can empower  
201 citizens to monitor their environment and can help them  
202 access real-time information about chemical releases in their  
203 neighborhoods. It is important for regulators to embrace new  
204 technology, and EPA and the states have taken significant  
205 steps toward modernization.

206           In 2011, the Government Accountability Office found  
207 serious problems with the state drinking water information  
208 systems. The EPA is now undertaking a significant effort to  
209 improve and modernize that system which will ensure that  
210 regulators and citizens have access to accurate drinking  
211 water quality information.

212           Progress is also being made on hazardous substances.

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213 Consumers and researchers looking for information about the  
214 dangers of potentially toxic chemicals can now turn to the  
215 EPA's ChemView sub portal. That new website brings together  
216 information for multiple programs and sources in a sortable  
217 and searchable format. As more testing is done under EPA's  
218 chemical action plans, this resource will become more and  
219 more valuable.

220       The environmental community is also using new technology  
221 to improve environmental protection. Just last week, an  
222 environmental group published the results of a partnership  
223 with Google that puts sensors on Google's street view mapping  
224 cars to detect methane leaks from utility pipes under city  
225 streets. The maps they produced illustrate the priorities  
226 for repair and replacement of aging lines, helping states and  
227 municipalities prioritize funding and reduce carbon  
228 pollution.

229       We will hear from the panel today about similar  
230 projects, bringing attention to the health impacts from coal  
231 mining and empowering people to participate in the protection  
232 of their local environment.

233       I welcome this opportunity to hear about some of these  
234 new tools and the strong partnership that has been created

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235 between EPA and the states to pursue E-Enterprise, a joint  
236 effort to maximize the use of advanced information  
237 technologies, optimize operations and increase transparency.

238 I am supportive of efforts to improve the experience of  
239 regulated entities, but these initiatives should remain  
240 focused on enhancing environmental protection. The primary  
241 customers of environmental regulations, the people served by  
242 them, are the public, not the regulated entities. In North  
243 Carolina last year, the new Republican head of the Department  
244 of Environment and Natural Resources shifted the agency's  
245 focus from protecting the public to providing customer  
246 service to regulated entities. When staff resigned in  
247 protest, he penned an op-ed to proclaim his success in  
248 turning the department into ``a customer-friendly  
249 juggernaut.'' We saw the results of that customer service  
250 approach in the Dan River coal ash spill. The effects of  
251 that spill were visible across 70 miles of the Dan River,  
252 crossing from North Carolina into Virginia and affecting  
253 drinking water sources for the citizens of Danville and  
254 Virginia Beach. According to a recent estimate, the economic  
255 impacts of the spill could exceed \$70 million.

256 So as we discuss this new technology and the potential

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257 for improving the process of environmental regulation, we  
258 must ensure that the role of regulators as protectors of the  
259 environment is not undermined. State and federal regulators  
260 should remain focused on protecting human health in keeping  
261 the air and water clean.

262 I look forward to today's testimony and learning how new  
263 technologies can be adopted to achieve these goals. Thank  
264 you, Mr. Chairman. I yield back my time.

265 [The prepared statement of Mr. Waxman follows:]

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

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267           Mr. {Shimkus.} The gentleman yields back his time. I  
268 want to thank him for his comments. And now I would like to  
269 recognize our panel. I will do that one at a time. Your  
270 full statement has been submitted for the record. You have 5  
271 minutes to summarize. We will not be draconian if you get  
272 off for a few seconds. But if you go 5 minutes extra, then  
273 you might hear the gavel come down. So that way we can get  
274 to questions. It is a large first panel. We want to make  
275 sure everyone has access to your testimony and questioning.  
276           So with that, first, we have Mr. Henry Darwin who is the  
277 Director of Environmental Quality for the State of Arizona.  
278 Sir, you are recognized for 5 minutes.



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279 ^STATEMENTS OF HENRY DARWIN, DIRECTOR, ARIZONA DEPARTMENT OF  
280 ENVIRONMENTAL QUALITY; DAVID CASH, COMMISSIONER,  
281 MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION; TERESA  
282 MARKS, DIRECTOR, ARKANSAS DEPARTMENT OF ENVIRONMENTAL  
283 QUALITY; WILLIAM L. KOVACS, SENIOR VICE PRESIDENT,  
284 ENVIRONMENT TECHNOLOGY & REGULATORY AFFAIRS, UNITED STATES  
285 CHAMBER OF COMMERCE; SCOTT SLESINGER, LEGISLATIVE DIRECTOR,  
286 NATIONAL RESOURCES DEFENSE COUNCIL; AND MATTHEW F. WASSON,  
287 DIRECTOR OF PROGRAMS, APPALACHIAN VOICES

|

288 ^STATEMENT OF HENRY DARWIN

289 } Mr. {Darwin.} Thank you. Thank you, Chairman Shimkus,  
290 Ranking Member Tonko and distinguished members of the  
291 Committee. I am Henry Darwin, Director of the Arizona  
292 Department of Environmental Quality. I have been director of  
293 ADEQ since February 2011, and prior to my appointment as  
294 director, I served approximately 15 years in various staff  
295 level and management positions throughout the agency,  
296 including chief counsel and acting director of the Water  
297 Quality Division. I am the only director in the agency's 27-

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298 year history to have worked in all three of ADEQ's  
299 environmental programs, air, water and waste.

300 As a trained hydrologist and environmental lawyer, as an  
301 enforcement officer who has worked to ensure regulated  
302 facilities comply with environmental laws, and as a former  
303 rank-and-file staff member who sat long hours inside a  
304 cubicle, I believe I bring a unique perspective to my role as  
305 the head of a state agency responsible for protecting and  
306 enhancing public health and the environment of Arizona.

307 During my tenure as a state employee, I have heard many  
308 times the demand for increased privatization of government  
309 services, as if all that ails government could be fixed  
310 simply by turning over the keys to the private sector.  
311 Roughly 40 percent of ADEQ's annual budget is already  
312 allocated to private, outside services. So we readily  
313 support privatization as being possible for an organization  
314 entrusted with the important responsibility of ensuring  
315 preservation of the delicate balance between the natural  
316 world and a society that depends on it for sustenance,  
317 prosperity and a rewarding quality of life.

318 This does not mean, though, that we support entrusting  
319 the private sector with guarding the delicate balance between

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320 environmental protection and economic prosperity. To critics  
321 who complain about how poorly government agencies perform, I  
322 say amen. Such critics are by and large correct. Most  
323 systems of government are indeed a mess, but rather than  
324 having government run by corporations, perhaps we might be  
325 better off encouraging agencies to operate more like  
326 corporations--the successful corporations, of course, because  
327 why would we emulate flops just because they operate in the  
328 private sector?

329       Looking at successful businesses today, we see they have  
330 several things in common. First and foremost, they do a very  
331 good job listening to their customers. Second, they rapidly  
332 adapt their processes to fulfill customer expectations. They  
333 are also adept at using technology to deliver faster, better,  
334 cheaper service and integrate technology the right way at the  
335 right time. We only have to look to the demise of  
336 Blockbuster video who used to have stores on virtually every  
337 street corner to see the consequence of not keeping up with  
338 the American public's increasing expectation that quality  
339 products and services be delivered immediately and online.

340       At ADEQ, we have made tremendous strides in the past 2  
341 years to improve productivity and efficiency for the benefit

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342 of our customers and shareholders by looking to the private  
343 sector for lessons about how to improve our processes and use  
344 technology to speed customer transactions. In the written  
345 comments I leave you with today, I elaborate on what we are  
346 doing, especially to deploy Lean management as a core  
347 philosophy and use it to instill a culture of continuous  
348 improvement throughout our organization. I also touch on a  
349 key project we have undertaken, which we call myDEQ, to  
350 leverage e-technology to radically simplify and further speed  
351 up operational transactions with our customers.

352 The point I want to leave you with is this. To be  
353 effective in meeting customer expectations, government  
354 agencies have much to learn from successful private sector  
355 businesses. What business knows, and what government  
356 agencies are starting to learn, is that to be successful,  
357 organizations must both streamline processes to improve  
358 capacity for a value-added activity and integrate information  
359 technology solutions to accelerate delivery of products and  
360 services. But these steps must occur in the proper order.  
361 First Lean your systems then integrate e-solutions. Reverse  
362 this order and agencies may well lock-in existing burdensome  
363 bureaucracy.

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364           Before closing my remarks, I would like to mention my  
365 participation and effort by EPA to bring federal  
366 environmental protection into the 21st century. Their  
367 effort, known as E-Enterprise, represents an unprecedented  
368 level of partnership with the states. As a member of the  
369 leadership committee, I can tell you that EPA is merely  
370 listening to states like Arizona, they are involving us  
371 deeply in developing a model for modern environmental  
372 protection, a model very close to what I have just described.  
373 Now, I am not usually one to say that EPA is heading in the  
374 right direction, but I can honestly say that I am happy to  
375 join them on this important journey and hope that we can  
376 count on your support. Thank you.

377           [The prepared statement of Mr. Darwin follows:]

378           \*\*\*\*\* INSERT 1 \*\*\*\*\*

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379           Mr. {Shimkus.} Thank you. Now, the chair recognizes  
380 Commissioner David Cash from Massachusetts, the State of  
381 Massachusetts, and he is in charge of the Department of  
382 Environmental Protection. Sir, you are recognized for 5  
383 minutes.

384           Mr. {Cash.} Thank you.

385           Mr. {Shimkus.} Well, I was going to say Commonwealth,  
386 but I couldn't get it out.

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387 ^STATEMENT OF DAVID CASH

388 } Mr. {Cash.} Thank you very much, Chairman Shimkus, and  
389 Ranking Member Tonko and other distinguished members of the  
390 subcommittee. It is a pleasure to be here today to talk  
391 about how the Massachusetts Department of Environmental  
392 Protection has been able to reach its two complementary goals  
393 of protecting public health and the environment and helping  
394 drive economic development. The agency, catalyzed by both  
395 significant reductions in resources and an evolving new  
396 economic development mission, devised a path forward that not  
397 only ensured the agency fulfilled its critical missions of  
398 protecting the environment, ensuring public health, and  
399 preserving the Commonwealth's natural resources, but also  
400 supported the needs of the Commonwealth's regulated community  
401 to facilitate growth and economic development.

402 Between 2002 and 2011, MassDEP's budget and staffing  
403 were reduced by more than 30 percent with no corresponding  
404 reduction in the agency's statutory environmental mission.  
405 In response, MassDEP undertook initiatives to restore  
406 alignment between available agency resources and work

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407 requirements. Those initiatives included identification and  
408 implementation of alternative regulatory approaches to  
409 streamline MassDEP's processes and procedures and pursuing  
410 major information management initiatives to increase  
411 automation and effectiveness of agency activities.

412       MassDEP's Regulatory Reform Initiative provided a  
413 mechanism for reviewing existing regulations to identify  
414 efficiency improvements which were required of all state  
415 agencies under Governor Deval Patrick's Economic Development  
416 Reorganization Act of 2010. MassDEP solicited regulatory  
417 reform ideas from a wide array of external stakeholders as  
418 well as from agency staff in consultation with other agencies  
419 including our Economic Development Agency. This solicitation  
420 effort included establishing an external Regulatory Reform  
421 Working Group to serve as key advisors in addition to hosting  
422 discussion forums with a number of other external  
423 stakeholders with representatives as diverse as the  
424 Massachusetts Health Officers Association, Boston Bar  
425 Association, Associated Industries of Massachusetts, and a  
426 group of prominent environmental advocacy groups. Successful  
427 alternative approaches being used by other states across the  
428 Nation were also evaluated.



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429           As a result of its Regulatory Reform Initiative, MassDEP  
430 recommended changes that, one, streamlined environmental  
431 permitting requirements, eliminated certain state permits  
432 that either were of low environmental protection value or  
433 duplicated local approvals, and encouraged better  
434 environmental outcomes by reducing barriers to  
435 environmentally and economically beneficial projects such as  
436 renewable energy. The resulting programmatic changes will  
437 achieve substantial agency efficiencies without sacrificing  
438 environmental protection by allowing MassDEP to disinvest  
439 from low-value regulatory activities, rely upon local  
440 regulatory entities where redundant oversight currently  
441 exists, and utilize authorized and accredited third parties  
442 for selective environmental inspection and regulatory  
443 implementation services. These regulatory changes include  
444 improvements to the following MassDEP programs: the cleanup  
445 of oil and hazardous materials waste sites; public waterfront  
446 protection; wetlands protection; septic systems; solid waste  
447 transfer stations and landfills; and siting of clean energy  
448 projects. Promulgation of these regulations is complete,  
449 with the exception of wetlands and waterfront protection  
450 regulations which are due to be finished by the end of this

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451 year.

452       One significant example of how MassDEP's streamlining of  
453 the regulatory permitting process resulted in reducing  
454 barriers to environmentally beneficial projects is the use of  
455 closed and capped landfills to support renewable energy  
456 facilities, such as solar panels or wind turbines.  
457 Previously, MassDEP regulations prohibited the utilization of  
458 closed and capped landfills for any other purpose. By  
459 understanding the opportunity that renewable energy  
460 facilities could provide for closed landfills, MassDEP  
461 revised its regulations to allow renewable energy projects  
462 while maintaining environmental protection. Just in the last  
463 couple of years, 52 projects at about 100 megawatts of  
464 renewable energy have been proposed, and 23 of those are  
465 already running.

466       In addition to effectively revising its regulations,  
467 MassDEP is undertaking an agency-wide review of its business  
468 processes to achieve greater efficiency and consistency  
469 across the Agency. The effort was initiated in coordination  
470 with MassDEP's proposed information system development  
471 effort, known as EIPAS, Energy and Environmental Information  
472 and Public Access System, and is intended to enable both

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473 MassDEP to perform timely, predictable and cost-effective  
474 permitting and implement data-driven strategies and policies,  
475 while responding effectively to environmental threats.

476 In particular, EIPAS is designed to reduce uncertainty  
477 and time to businesses, improve stewardship of Massachusetts'  
478 environmental resources, use data-driven strategies and  
479 policies, increase civic engagement, and enhance  
480 collaboration and data sharing.

481 Massachusetts' Brownfield programs also has incentives  
482 that are available to buyers and sometimes sellers of  
483 contaminated property, provided it is a commitment to  
484 environmental cleanup and property redevelopment. We have  
485 committed to this clean-up in such a way that we are  
486 coordinating data gathering for a variety of different  
487 criteria that the developing community is interested in  
488 accessing and coordinating this with our MassGIS system, so  
489 through a mapping and data program, we are able to provide  
490 information to municipalities and the development community  
491 on these sites that show great promise for both renewable  
492 energy development and development of more traditional  
493 economic development.

494 Finally, by partnering with EPA on the E-Enterprise for

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495 the Environment Initiative, MassDEP and EPA can achieve  
496 additional governmental efficiencies while reducing  
497 administrative burden reduction. E-Enterprise for the  
498 Environment is an innovative 21st Century business strategy  
499 utilizing joint governance of states and EPA to improve the  
500 performance of our shared environmental enterprise by closely  
501 coordinating job program implementation and creating  
502 efficiencies for the regulated community and the public.

503 Through continued support of the E-Enterprise, I believe  
504 that EPA, the states and regulated entities will all benefit  
505 from a more coordinated environmental enterprise. I also  
506 believe that the E-Enterprise Initiative will maximize  
507 governmental efficiencies and significantly reduce  
508 administrative burdens through streamlining regulations,  
509 optimizing processes and coordinating system development  
510 activities.

511 Thank you for providing me this opportunity to provide  
512 testimony today. I am happy to take any questions.

513 [The prepared statement of Mr. Cash follows:]

514 \*\*\*\*\* INSERT 2 \*\*\*\*\*

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|

515           Mr. {Shimkus.} Thank you. Now I would like to  
516 recognize Director Teresa Marks, Director of Environmental  
517 Quality from the State of Arkansas.

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|

518 ^STATEMENT OF THERESA MARKS

519 } Ms. {Marks.} Chairman Shimkus, Ranking Member Tonko and  
520 all the members of the subcommittee, thank you for inviting  
521 me to speak today about my department's ongoing efforts to  
522 modernize environmental regulations through electronic  
523 reporting.

524 By way of disclaimer, let me just say initially that I  
525 am probably the least tech-savvy person in this room. I am  
526 one of those people that when I fire up my computer in the  
527 morning, I am still amazed by the miracle of email. But I am  
528 a very practical person, and I realize the tremendous  
529 benefits that can be achieved through the use of electronic  
530 reporting.

531 The Arkansas Department of Environmental Quality strives  
532 to be responsive to members of the public, whether they are  
533 seeking water quality data, filling out a Title V air permit  
534 application or reporting an environmental concern.

535 We all realize that electronic reporting doesn't  
536 completely replace traditional ways of doing business. A  
537 citizen in Rose Bud wanting a speaker for the local Lion's

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538 Club will probably still pick up the phone, and the owner of  
539 a small salvage yard in Romance will most likely mail in  
540 their storm water permit application. But electronic  
541 reporting puts a wealth of information and opportunity at a  
542 user's fingertips and greatly benefits the department. Users  
543 save time and money, not to mention the sparing of a few  
544 trees. From the department's standpoint, electronic  
545 reporting allows us to more quickly respond to complaints,  
546 review permits and upload data. In this day and age, the  
547 large majority of the businesses and residents we serve are  
548 tech savvy so it behooves the department to keep up.

549 I would like to talk briefly about what ADEQ has done to  
550 modernize reporting and how we plan to improve and expand  
551 electronic offerings in the future. Since 2012, ADEQ has  
552 used the State and Local Emissions Inventory System, or SLEIS  
553 as it is referred to, to allow permitted facilities to submit  
554 point source emissions inventory data online. SLEIS is  
555 compliant with the Environmental Protection Agency's Cross-  
556 Media Electronic Reporting Regulation, commonly called  
557 CROMMER. ADEQ used an EPA grant to develop the system in  
558 partnership with environmental agencies in Arizona, Delaware,  
559 New Hampshire, West Virginia, and Tennessee. The system has

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560 proven popular in our State with 90 to 95 percent of  
561 reporting facilities entering their data directly into the  
562 system.

563 Hazardous waste generators and treatment, storage and  
564 disposal facilities in Arkansas can use a CROMMER-approved  
565 system to submit annual reports that detail how much  
566 hazardous waste a given facility generates or manages. Clean  
567 Water Act permit holders can submit discharge monitoring  
568 reports electronically using a NetDMR system developed by EPA  
569 and used nationally. Again, these reporting tools streamline  
570 the reporting process not only for the public, but for ADEQ's  
571 employees as well, resulting in the saving of both public and  
572 private resources.

573 An example of how modernized reporting has made the  
574 department more efficient is the use of electronic tablets in  
575 our Regulated Storage Tanks Division. Each inspector at ADEQ  
576 in the Storage Tank Division carries such a tablet when  
577 performing facility inspections. The inspection forms are  
578 loaded onto the tablets, and the inspector is able to fill  
579 out the form on site while in the presence of the facility  
580 operator. Once the inspection is complete, the facility  
581 operator signs the inspection report, and with the use of



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582 secure software, the form is locked to ensure the signature  
583 can't be copied or the form changed without the facility  
584 operator's knowledge. The inspection report can be printed  
585 on site with the mobile printers they carry in their truck  
586 and given to the facility owner who can start addressing  
587 potential issues immediately instead of waiting for a copy of  
588 the report to arrive through traditional mail services.

589 We are excited about the strides we have made to  
590 modernize reporting in recent years, but in many ways the  
591 best is yet to come.

592 I often say that the citizens of Arkansas are our eyes  
593 and ears. Our inspectors insure that facilities across  
594 Arkansas comply with their permits, but they can't be  
595 everywhere all the time. Currently citizens can submit  
596 complaints online 24 hours a day or call our offices directly  
597 when they see something they view as an environmental hazard.  
598 Our staff is developing a mobile application that would allow  
599 users to submit complaints, along with GPS coordinates and  
600 photos, from their phones. Those details will aid our  
601 inspectors in determining the severity of any violation as  
602 well as the exact location of the area of concern. This  
603 information will be invaluable in addressing violations in a

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604 timely and efficient manner.

605       Finally, we are in the late stages of developing an  
606 ePortal system that will allow applicants to apply for  
607 permits, licenses and registrations online. The ePortal  
608 system, which we hope to roll out in the fall, was developed  
609 using CROMMER standards and is currently being reviewed by  
610 EPA. The first feature to go live will be the online permit  
611 applications submission process. The development of this  
612 system has involved an incredible amount of staff time and  
613 resources, a good bit of trial and error and a lot of  
614 testing. But we are confident the end result will be well  
615 worth the effort.

616       Electronic reporting has allowed the department to be  
617 more efficient and more responsive. We hope to continue to  
618 improve and expand our offerings to meet the demands of the  
619 public in the most efficient and effective way possible.

620       Thank you for your time. I would be happy to answer any  
621 questions.

622       [The prepared statement of Ms. Marks follows:]

623 \*\*\*\*\* INSERT 3 \*\*\*\*\*

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|

624           Mr. {Shimkus.} Thank you very much. Now I would like  
625 to recognize Mr. Bill Kovacs representing the U.S. Chamber of  
626 Commerce. Welcome, sir. Five minutes.

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|

627 ^STATEMENT OF WILLIAM L. KOVACS

628 } Mr. {Kovacs.} Good morning, Chairman Shimkus, Ranking  
629 Member Tonko and other members of the committee. Thank you  
630 for inviting me here today to discuss modernizing the  
631 business of environmental regulation and protection.

632 The committee should really be commended for this very  
633 important issue dealing with the federal-state relationship,  
634 especially in the implementation of environmental laws. The  
635 relationship between the states and EPA is very important  
636 because the states manage most of the implementation,  
637 permitting, enforcement, inspections and data collections for  
638 federal environmental programs. According to ECOS, the  
639 Environmental Council of the States, the states manage  
640 approximately 96 percent of the federal programs that are  
641 delegated to the states. And I think it is fair to say that  
642 without the states' cooperation and willingness to assume  
643 these responsibilities, EPA would have a difficult time  
644 implementing federal statutes.

645 The Chamber is also pleased to learn that ECOS and EPA  
646 are partnering in the E-Enterprise Initiative. My

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647 understanding is that E-Enterprise Initiative aims to  
648 modernize environmental programs in order to reduce  
649 paperwork, enhance services to the regulated community and  
650 streamline operations. E-Enterprise is presently in a  
651 concept phase, so it is kind of hard for us to offer a  
652 blanket support for the program. But we do offer a general  
653 support because we think it is an excellent idea, and any way  
654 in which the business community can help, we would be glad to  
655 assist.

656       It is important to note, however, that over the last--  
657 since really since the Carter administration, many of these  
658 efforts have been tried, and really, we have had somewhat of  
659 a mixed success. What seems to happen is the streamlining  
660 efforts literally get overwhelmed by a regulatory system that  
661 continuously becomes much more complex and much more costly.  
662 As a result, the states assume responsibility for managing  
663 more programs, implementing and enforcing more and newer  
664 regulations in shorter timeframes, and they have to do all of  
665 this with less money. In fact, the amount of money awarded  
666 to the states by the Federal Government has been reduced from  
667 \$5 billion in fiscal year 2010 to \$3.6 billion in fiscal year  
668 2013.

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669           So the complexity and the cost of the mandates imposed  
670 on the states are significant, and they are really going to  
671 get worse as we cut the budgets. I think just this year, if  
672 you look at it, you are going to see three very complex and  
673 staff-intensive rule-makings that the states are going to  
674 have to pick up over the years: greenhouse gas regulations  
675 for existing power plants, ozone for which the states are  
676 going to do implementation plans and Waters of the United  
677 States. These are three huge programs that they are going to  
678 have to deal with. So we need to be conscious of how much we  
679 can impose upon the states and how much we can ask them to do  
680 with the resources that we are willing to give them.

681           So I have several suggestions. One is anything we can  
682 do to help on E-Enterprise, let us know. We will help. The  
683 Chamber has been very active in pursuing what we call permit  
684 streamlining. We believe it is one of the few efforts in the  
685 Federal Government that has really garnered an enormous  
686 amount of bipartisan support. The House passed a bill on  
687 permit streamlining, H.R. 2641 with bipartisan support. The  
688 Senate Federal Permitting and Improvement Act, sponsored by  
689 Senator Portman, has six Democrat cosponsors, and permit  
690 streamlining was one of the top recommendations of the

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691 President's Jobs Council. It has been the subject of several  
692 presidential directives, and it has been the focus of the new  
693 infrastructure initiative released by the White House. I am  
694 not saying there is all agreement, but we are much closer on  
695 this issue than we are on most.

696         Second, I think we can look at just some practical  
697 things. EPA promulgates, for example, National Ambient Air  
698 Standards. Every 5 years it must be revised. By law they  
699 must at least review them. And every 5 years, EPA does  
700 revise them. This is very rushed because when you are a  
701 state, the states have to go back, and they have to, once  
702 they get the federal mandate, they have to design it, they  
703 have to implement it and many times they have to litigate it.  
704 And we are saying that rather than doing something every 5  
705 years, there should be more discretion because what happens  
706 is if you do everything in a 5-year period, the states really  
707 never catch up. They just finish, and they are onto a new  
708 system. And it is so rushed, that we really never get a time  
709 even to find out what is working and what is not. I think  
710 federal agencies should truly look at the Unfunded Mandates  
711 Act and so should Congress. They should look at regulatory  
712 alternatives.

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713           And finally, I really think that the states do a  
714   fabulous job. In the course of the year they end up doing  
715   hundreds of thousands of types of transactions and  
716   enforcements and inspections. But sometimes the EPA decides  
717   that it wants to over file them because it doesn't like one  
718   particular way in which they are handling an issue.

719           So anyway, with that I will quit, and thank you very  
720   much. I will answer any questions.

721           [The prepared statement of Mr. Kovacs follows:]

722   \*\*\*\*\* INSERT 4 \*\*\*\*\*



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|

723           Mr. {Shimkus.} Thank you very much. The chair now  
724 recognizes Scott Slesinger, Legislative Director for the  
725 National Resources Defense Council. He has appeared before  
726 us many times. Welcome back, and you are recognized for 5  
727 minutes.

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|

728 ^STATEMENT OF SCOTT SLESINGER

729 } Mr. {Slesinger.} Thank you, Mr. Chairman, Ranking  
730 Member Tonko, members of the subcommittee. Thank you for the  
731 opportunity to testify today. My name is Scott Slesinger,  
732 and I am the Legislative Director of the Natural Resources  
733 Defense Council. NRDC is a non-profit organization of  
734 scientists, lawyers and environmental specialists dedicated  
735 to protecting public health and the environment.

736 Before becoming the legislative director, I spent a  
737 decade promoting the e-Manifest concept as a lobbyist for the  
738 hazardous waste disposal industry. My remarks reflect that  
739 experience as well as my years as a regulator at EPA and my  
740 current perspective at NRDC.

741 The striking lesson trying to move towards electronic  
742 manifest was how new technologies gradually put to rest  
743 concerns over security and costs. There was plenty of  
744 resistance at the outset. The Justice Department had serious  
745 concerns about anything but a handwritten signature, based on  
746 hundreds of years of American and common law jurisprudence.  
747 This concern about new-fangled technology in some ways echoed

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748 a mortgage bankers' magazine article from 1947 that talked  
749 about the signature problems spawned by a new technological  
750 invention that they said was made for counterfeiters: the  
751 ball point pen.

752 When I left the industry in 2009, the major technology  
753 problem was how to allow waste haulers to confirm delivery by  
754 use of a landline. The idea that virtually everyone would  
755 have a smartphone was just not contemplated. Another problem  
756 was how and who should pay for the reduction of the paperwork  
757 burden on companies. This was finally compromised, and the  
758 bill authorizing electronic manifests passed this committee  
759 and was signed into law.

760 A key lesson learned through this process is that  
761 technology keeps changing. The goal of finding a platform  
762 and using it over and over again, which is contemplated in  
763 the E-Enterprise principles, must be done with care and eyes  
764 wide-open. Tomorrow's technology may make today's cloud  
765 tomorrow's VCR.

766 The other hurdle to get e-Manifest authorized was how  
767 hard it was to pass even what we thought was minor changes in  
768 basic environmental laws. Manifest changes at least 10  
769 years. Many more of the advances in electronic reporting

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770 will regulatory changes. However, regulatory process because  
771 of executive orders and required impact statements is so  
772 convoluted it often takes the agency more than 6 years to do  
773 a simple regulatory change, enough time to make a rule  
774 dealing with new technologies obsolete before the rule is  
775 final. Proposals to expand these processes for guidance  
776 documents and adding on top of that something like the REINS  
777 Act places epic hostile artificial barriers in the path of  
778 EPA and state modernization.

779 Using new technologies is necessary as industry becomes  
780 wired and budget cuts make working the traditional way  
781 unsustainable. But these benefits come at a financial start-  
782 up cost to develop while this Congress continues to  
783 eviscerate the EPA budget.

784 The E-Enterprise vision implies that improving  
785 environmental outcomes and dramatically enhancing services to  
786 the regulated community and public are equal principles. We  
787 believe the number one goal of E-Enterprise should and must  
788 be striving for better environmental outcomes. Reducing  
789 paperwork, as with the manifest, is a nice outcome. But EPA  
790 should not be investing its few dollars, now at a long-time  
791 low, for anything that does not advance EPA's mission of

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792 improving the environment and public health.

793       The movement towards E-Enterprise in enforcement is  
794 positive because it could lead to more and cheaper  
795 inspections and enforcement. However, because of the budget  
796 cuts E-Enterprise is helpful but insufficient. However,  
797 EPA's strategic plan promises significantly less compliance  
798 and enforcement efforts going forward, even using new  
799 technologies. Cuts in environmental enforcement inevitably  
800 lead to less protection and unfair competitive disadvantage  
801 to responsible companies who play by the rules. EPA's plan  
802 to use technology and aim its enforcement at the greatest  
803 threats in the largest companies lies a problem. How can  
804 they tell where these threats are with their acknowledged  
805 reduced capacity? Aiming at just the large companies doesn't  
806 help, either. Actual experience shows that many times, such  
807 as the recent spill in West Virginia or the kepone spill that  
808 closed the James River, that very small companies can cause  
809 substantial harm. Recent amendments and proposals outlined  
810 in my footnotes in my testimony show that essentially taking  
811 low-profit marginal--I am sorry--take low-profit margin  
812 recyclers of toxic hazardous materials off the grid--  
813 companies under tremendous pressure to cut corners--worry the

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814 environmental community and these companies local  
815 communities, at least in those communities that even know  
816 what these companies are doing. High-tech monitoring only  
817 works with companies that have the technology and the states  
818 even known exist.

819 Because of other priorities, the environmental  
820 community, and particularly the environmental justice  
821 communities, without a substantial outreach by the states and  
822 EPA, could be detached to the E-Enterprise effort. We  
823 believe the final products of E-Enterprise will be  
824 significantly improved if meaningful efforts are made to  
825 include these customers in the development of these programs.

826 Thank you.

827 [The prepared statement of Mr. Slesinger follows:]

828 \*\*\*\*\* INSERT 5 \*\*\*\*\*

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|

829           Mr. {Shimkus.} Thank you very much. And last but not  
830 least is Matt Wasson, a Director of Programs for the group  
831 Appalachian Voices. Sir, you are recognized for 5 minutes.

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|

832 ^STATEMENT OF MATTHEW F. WASSON

833 } Mr. {Wasson.} Thank you, Chairman Shimkus, Ranking  
834 Member Tonko and members of the Subcommittee for the  
835 opportunity to speak today. My name is Matt Wasson. I am  
836 the Director of Programs at Appalachian Voices. We are an  
837 organization dedicated to protecting the land, air, water and  
838 people of the Southern and Central Appalachian region.

839 Appalachian Voices supports the committee's goal of  
840 modernizing environmental regulation and protection.  
841 Certainly using technology and science to achieve better  
842 environmental outcomes at lower cost is a goal that we, and I  
843 think all Americans, share. But modernization doesn't only  
844 mean finding technological solutions. Modernization means  
845 adapting to modern realities.

846 And so in the context of today's hearing, it is useful  
847 to ask, what has changed over the 40 or 50 years since  
848 Congress passed the Nation's key environmental laws and our  
849 modern state and federal regulatory apparatus that was put in  
850 place? Certainly the ability of private interests to  
851 influence the political process has skyrocketed in recent



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852 years, and that influence is even greater at the state level  
853 than it is at the federal level. That means that the ability  
854 of regulated industries to influence the regulatory process  
855 at the state level is greater than it has ever been. Any  
856 genuine attempt to confront that threat requires a greater,  
857 not lesser, role for federal agencies like the EPA.

858 Another thing that has changed since the 1970s is the  
859 assumption underlying our key environmental laws, that  
860 industry can be trusted to self-report environmental  
861 violations to regulators. That now appears naïve, at least  
862 as it applies to the coal industry in Appalachia.

863 As I went into in depth in my written testimony, the  
864 biggest coal companies in Kentucky for years routinely failed  
865 to deliver discharge monitoring reports to state regulators  
866 in addition to filing false reports that regulators failed to  
867 detect until environmental groups like Appalachian Voices  
868 stepped in. Worst of all, companies appear to have  
869 manipulated water quality results in a manner that is  
870 virtually impossible to explain with an innocent explanation.  
871 For instance, the statistical likelihood that the  
872 conductivity values submitted by one of the biggest coal  
873 companies in Kentucky could have occurred through natural

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874 variation approaches one in a google. That is one with 100  
875 zeroes after it.

876 Modernizing environmental regulation protection in this  
877 context means confronting this reality and investing more  
878 resources and manpower in state and federal regulatory  
879 agencies' ability to review and independently verify the  
880 discharge monitoring reports provided by coal companies.  
881 Decreasing the funding and power of these agencies' funding  
882 moves in the direct opposite direction of modernization.

883 Most importantly of all, there was little scientific  
884 information linking mountaintop removal to elevated cancer  
885 and other disease among nearby residents back in the 1970s or  
886 even 10 years ago. But as I discussed quite a bit in my  
887 written testimony, a trove of peer-reviewed scientific  
888 studies and multiple independent sources of information have  
889 emerged over the last 5 years that regulators should not  
890 continue to ignore.

891 Here are the modern facts for people living near  
892 mountaintop removal mines in Appalachia. And if we can have  
893 that first slide?

894 [Slide]

895 Mr. {Wasson.} People living near mountaintop removal

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896 mines in Appalachia which are shown in red on the slide are  
897 50 percent more likely to die from cancer than other people  
898 in Appalachia. In addition, their children are 42 percent  
899 more likely to be born with birth defects.

900       Next slide, please. Did you skip one? My apologies.  
901 We can continue on. People living near mountaintop removal  
902 are in counties with mountaintop removal mining in Appalachia  
903 have a life expectancy that is far behind the national  
904 average and is comparable to people living in developing  
905 countries like Iran, Syria, El Salvador and Vietnam. And  
906 these negative trends are not just about health. They also  
907 include socioeconomic trends. For instance, the counties  
908 where mountaintop removal mining occurs are seeing some of  
909 the most rapid population loss of anywhere in the country as  
910 the next slide shows.

911       [Slide]

912       Mr. {Wasson.} Modernizing environmental regulation and  
913 protection in Appalachia means confronting these facts  
914 directly, and it happens that this subcommittee has unique  
915 ability to do just that. A bill called the Appalachian  
916 Community Health Emergency Act, or ACHE Act for short, was  
917 reported to this subcommittee. I am not in a position to

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918 speak substantively about the bill, but fortunately,  
919 Congressman Yarmuth, the lead sponsor, was able to join us  
920 today. I thank you, Congressman.

921       What I can say is this. The voices of the Appalachian  
922 residents supporting the ACHE Act deserve to be heard, and  
923 this committee should hold hearings on that bill and the  
924 community health emergency in Appalachia that the bill  
925 addresses.

926       One final thing that has changed dramatically in  
927 Appalachia since the 1970s is the simple geological reality  
928 that the highest quality and easiest to access coal seams  
929 have been mined out. In addition, the modern reality of  
930 energy markets is that Appalachian coal simply can no longer  
931 compete with inexpensive new sources of natural gas. What  
932 this means is that the market for Central Appalachian coal is  
933 going away, and it is not coming back.

934       Appalachians are proud of the contribution their region  
935 has made in supplying affordable energy to power America's  
936 rise to the greatest economy on Earth. But the word  
937 modernization in Appalachia means looking beyond the coal  
938 industry for a sustainable source of jobs and economic growth  
939 in the region.

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940           Thank you, Mr. Chairman. I will be happy to take any

941   questions.

942           [The prepared statement of Mr. Wasson follows:]

943   \*\*\*\*\* INSERT 6 \*\*\*\*\*

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|

944           Mr. {Shimkus.} Thank you, and now we will begin our  
945 opening statements. And just, Mr. Wasson, I would say you  
946 are correct in the market debate of what is going on in West  
947 Virginia and the coal, but I will tell you, thanks for the  
948 challenging of the lower coal seams, coal mining in Southern  
949 Illinois is increasing, and that helps our economy in  
950 Southern Illinois. So we understand the economic reality.  
951 We welcome these jobs in Southern Illinois.

952           Director Darwin, I was curious. You mentioned the word  
953 customers. Who are your customers?

954           Mr. {Darwin.} Mr. Chairman, our customers really depend  
955 on the product or service that we are delivering. And we  
956 define customers as the end-user of the product or service.  
957 So an end-user could be the permittee that has applied for a  
958 permit and ultimately going to have to comply with the  
959 permit, understand the permit, implement the terms of the  
960 permit. If we are developing a Web service of some sort that  
961 is available to the public, the public being the end-user of  
962 that Web service would be the customer in that context.

963           So customer doesn't always mean the regulated community.  
964 It could also mean the general public so long as the service

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965 that we are providing or the part that we are delivering has  
966 them as the end-user.

967 Mr. {Shimkus.} Could it also mean public interest  
968 groups like the NRDC or the Sierra Club or Appalachian Voices  
969 if they were--if Appalachia were a part of your state, which  
970 it is not? I know that.

971 Mr. {Darwin.} Certainly, that would be the case. Like  
972 I said, so long as whatever we are delivering as a product or  
973 service has them being one of the end-users and because they  
974 are a member of the public and we serve the public, a lot of  
975 the things that we do have the end-user, the general public,  
976 in mind.

977 Mr. {Shimkus.} Mr. Cash, I also was very interested in  
978 your opening statement and also the phrase low environmental  
979 protection value. How did you make a determination--I mean,  
980 sometimes we have our debates here, and we never get to that  
981 point because anything mentioned environmentally is high. We  
982 can't even classify that in our debate on chemicals  
983 sometimes. Obviously you did that. Talk me through how you  
984 did that, and did you have public involvement? Did you have  
985 the private sector? Did you have the, you know, obviously  
986 the non-governmental organizations? Did you have the public

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987 as a whole? How did you do that, make that determination.  
988 Mr. {Cash.} Thank you very much, Chairman. It is a  
989 great question. And when we were faced with the declining  
990 budgets, it became very clear that there were multiple  
991 interested parties that were concerned about steps forward.  
992 Certainly you had the environmental community that was  
993 concerned that environmental protection would become more  
994 relaxed, and that was of grave concern to our agency as  
995 well. And then you had the regulated community that was  
996 concerned that permitting times would take longer, it would  
997 become a more complex kind of endeavor moving forward. And  
998 so I think the real answer to your question is that we had a  
999 very robust stakeholder process and an advisory group that  
1000 was formed that wasn't just an ad hoc, one-time meeting.  
1001 This was--these were people from the regulated community,  
1002 environmental communities, municipalities, other state  
1003 agencies who are engaged in this long-term discussion about,  
1004 how do we do more in a more budget-constrained environment?  
1005 How do we continue to protect the environment? How do we  
1006 continue to allow the regulated community to have the  
1007 certainty and timeliness that it needs?  
1008 And so we had very difficult conversations about where



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1009 there might be places that we could reduce the efforts that  
1010 we did. Now, some of these were relatively easy where we  
1011 found places where there were multiple redundant permits,  
1012 state and local permits that regulated the same kind of  
1013 wetlands but forms had to be filled out for all three, et  
1014 cetera. That was relatively easy. But an example of what  
1015 you are talking about those kinds of environmental values  
1016 that we felt like in a real budget-constrained environment,  
1017 what could we focus on less. One, for example, was docks and  
1018 piers, small docks and piers, which underwent basically the  
1019 same kind of resources for large coastal or wetlands  
1020 projects, and here in agreement in this advisory committee we  
1021 said, you know what? We could put a little less resources  
1022 into the evaluation of these kinds of permits.

1023 So the real answer is that it was through these  
1024 conversations that we had collectively, and there was not  
1025 consensus everywhere, of course, but everybody had a stake at  
1026 the table. And as we changed our regulations, each of those  
1027 regulations then went through another, the official public  
1028 process with public hearing.

1029 Mr. {Shimkus.} Thank you. And if I can, I want to  
1030 follow up with you on that, and maybe there is a process by

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1031 which we can adapt here to help us move forward.

1032 Mr. {Cash.} Absolutely.

1033 Mr. {Shimkus.} And Ms. Marks, also since I am from a  
1034 large rural area--I represent 33 counties. There are 102  
1035 counties in the State of Illinois--your debate on your tablet  
1036 issue, I want you to highlight it again. Based upon from my  
1037 understanding, the travel time of the investigators using  
1038 technology, explain how that is especially in a rural area  
1039 where the investigators have to go out and travel long  
1040 distances.

1041 Ms. {Marks.} Well, I certainly think that the time  
1042 saved, resources saved for both the regulated community and  
1043 the department have been great with the use of the tablets,  
1044 particularly as you said in the rural areas. We have nine  
1045 field offices across the State, but before we began the use  
1046 of the tablets, our tank inspectors used to go out and they  
1047 would have a clipboard, and they would make notes on their  
1048 clipboard. And they would come back to the field office, and  
1049 they would enter the information into the computer, and it  
1050 would go into the main system. And then a letter would be  
1051 sent to the owner-operator telling them the results of the  
1052 inspection and what needed to be fixed, and then we would go

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1053 from there on seeing how those repairs were done. It was  
1054 just a time-consuming process.

1055 Now when our inspectors go out, they have a portable  
1056 printer in their trucks. They have their tablets that have  
1057 the forms loaded onto them for the inspections. They walk  
1058 around with the owner-operator who is right there beside  
1059 them, and they do the inspection with them present. They  
1060 tell them, you know, what they see. They will point out to  
1061 them where the problems are exactly. And then once they go  
1062 over the report with them after the inspection is over, the  
1063 owner-operator signs the report, which seals the report. It  
1064 cannot be changed after that. And then they print it out  
1065 there and give them a hard copy, or they will email to them,  
1066 whichever they prefer. And that has made compliance much  
1067 more rapid with those types of issues because the owner-  
1068 operator for one thing is aware of what the report is going  
1069 to say immediately, and it increases our credibility with the  
1070 regulated community because they know we can't change that  
1071 report when we get back.

1072 Now, indeed if the main office looks at the report and  
1073 finds out there is some problem, there might be some mistake,  
1074 something that was done wrong, we have to do an addendum. We

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1075 can't change that report.

1076 So it begins with the regulated community knowing  
1077 immediately what is going on and what they need to improve so  
1078 they can get started on that immediately. And oftentimes it  
1079 is taken care of within a few days.

1080 Mr. {Shimkus.} Thank you. My time has well expired.  
1081 The chair now recognizes Mr. Tonko for 5 minutes.

1082 Mr. {Tonko.} Thank you, Mr. Chair, but I am going to  
1083 yield to the gentleman from California who has a conflict,  
1084 another hearing.

1085 Mr. {Shimkus.} The gentleman from California is  
1086 recognized for 5 minutes.

1087 Mr. {Waxman.} Thank you, Mr. Chairman and Mr. Tonko,  
1088 for allowing me to ask my questions. Dr. Wasson, your  
1089 testimony covers a number of important environmental problems  
1090 including disturbing health trends in communities around  
1091 mountaintop removal sites, but I would like to ask about your  
1092 work to address coal ash contamination, an issue that has  
1093 been a major focus of this subcommittee.

1094 What are some of the problems you have seen from unsafe  
1095 coal ash disposal?

1096 Mr. {Wasson.} Thank you, Congressman Waxman, for that

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1097 question. The Appalachian Voices, my organization, does  
1098 work--a lot of our time is spent trying to address the  
1099 problem of unsafe coal ash practices in North Carolina and  
1100 other states around the Northeast, or the Southeast. And  
1101 certainly the most dramatic problem we have seen recently was  
1102 the Dan River coal ash spill when 40,000 gallons of toxic  
1103 coal ash spilled into the Dan River, an entirely avoidable  
1104 accident.

1105 In North Carolina we have 14 sites where coal ash is  
1106 stored. In every site, these are being stored in unlined  
1107 impoundments that have been shown to be leaking, leeching  
1108 toxic and heavy metals into groundwater as well as seeping  
1109 contaminants into nearby surface waters. These are all built  
1110 directly adjacent to large waterways, many of which provide  
1111 drinking water for millions for North Carolinians.

1112 Mr. {Waxman.} Well, we have heard repeatedly people on  
1113 this committee tell us that the states are doing a good job  
1114 of regulating coal ash, but your testimony tells a different  
1115 story.

1116 Mr. {Wasson.} That is right. I don't think that many  
1117 people in North Carolina, certainly many elected officials of  
1118 both parties, and the media have complained very loudly about

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1119 the poor state of regulation of coal ash in the State. The  
1120 fact that these impoundments were leaking and leeching into  
1121 the nearby surface waters was not discovered by the State, by  
1122 any of the State regulators until environmental groups went  
1123 out and actually did the monitoring and discovered some of  
1124 these problems and filed suit. And then eventually the State  
1125 stepped in, but as you probably know, the State is actually  
1126 under a criminal investigation around how the State agencies  
1127 have handled--

1128 Mr. {Waxman.} Which State is that?

1129 Mr. {Wasson.} North Carolina.

1130 Mr. {Waxman.} North Carolina. So if we rely on the  
1131 states to do this without federal backup of any sort, there  
1132 is a lack of transparency, a lack of enforcement, a lack of  
1133 necessary safeguards. It seems like a lack of even trying to  
1134 understand what is happening for the coal ash. How are your  
1135 organizations and others using technology to fill in some of  
1136 the gaps in federal and state efforts to ensure safe  
1137 disposal?

1138 Mr. {Wasson.} So we work with a coalition of groups led  
1139 by the Southern Alliance for Clean Energy based out of  
1140 Knoxville that has provided online tools so that people can

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1141 understand where these coal ash impoundments are, if they are  
1142 living next to them and actually obtain information about  
1143 what--the ground water testing that is happening there so  
1144 that they have a sense of what is going into their  
1145 groundwater. Again, in a State like North Carolina, 50  
1146 percent of the residents rely on wells for their drinking  
1147 water. So this is a very big concern.

1148       Mr. {Waxman.} Well, if you are monitoring data and  
1149 other information and it becomes accessible on the Internet  
1150 or through cell phones, how do we make sure that those who  
1151 don't have access to that technology get the information they  
1152 need?

1153       Mr. {Wasson.} And that is the excellent question and is  
1154 why I think technology is very limited in its ability to help  
1155 with some of these problems. Certainly in coal mining  
1156 regions in Appalachia, access to high-speed Internet like DSL  
1157 or cable or even cell phone reception seems like a distant  
1158 dream in many of these communities. It requires very  
1159 resource-intensive, boots-on-the-ground kind of efforts in  
1160 order to engage folks who are living with the greatest  
1161 threat.

1162       Mr. {Waxman.} I had argued for the last several years

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1163 that strong federal coal ash regulations are needed to  
1164 protect public health and the environment from toxic  
1165 elements, including arsenic, lead, mercury and selenium.  
1166 Will state action be enough or do you think we need a strong  
1167 federal regulation for coal ash? And EPA is finalizing their  
1168 coal ash rule. Can citizen participation play an important  
1169 role in highlighting the need for strong enforceable federal  
1170 standards?

1171 Mr. {Wasson.} I think the situation in North Carolina  
1172 is one of the best arguments I can provide for why we do  
1173 need, we absolutely do need, a strong federal rule in coal  
1174 ash regulation. It is going to be a disaster I think if we  
1175 leave most of that up to the states.

1176 Mr. {Waxman.} Thank you, Mr. Chair.

1177 Mr. {Shimkus.} The gentleman's time is expired. The  
1178 chair now recognizes the gentleman from Ohio, Mr. Latta, for  
1179 5 minutes.

1180 Mr. {Latta.} Well, thank you very much, Mr. Chairman,  
1181 and thanks very much to our panel for being with us today. I  
1182 really appreciate your testimony. A little background. I  
1183 know the members of this subcommittee have already heard me  
1184 say this, but I represent a district with 60,000



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1185 manufacturing jobs, and right along the same line I also  
1186 represent the largest agriculture district in the State of  
1187 Ohio. So dealing with regulations and complying with them  
1188 are one of the things that I hear from my constituents the  
1189 most. And a couple of years ago the SBA had come out and  
1190 said that we have \$1.7 trillion of regulations here in this  
1191 country, and unfortunately, it was updated this year to \$1.9  
1192 trillion.

1193         So interesting enough, when I spend out in my district  
1194 going through hundreds and hundreds and hundreds of different  
1195 plants and businesses across my district, the number one  
1196 issue I always hear about is regulations.

1197         And if I could start with Mr. Kovacs, I found it  
1198 interesting, your testimony, because I think that it is also  
1199 always interesting to remember these things. You have on  
1200 page five of your testimony you state that the Hoover Dam was  
1201 built in 5 years, the Empire State Building took 1 year and  
1202 45 days, the Pentagon less than 18 months, the New Jersey  
1203 Turnpike 4 years from inception to completion. Then you fast  
1204 forward to 2014. The Cape Wind needed over a decade just to  
1205 receive the necessary permits to build an off-shore wind  
1206 farm. And it is interesting that you point these things out

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1207 because as you look at where we have gone from start to  
1208 finish and how fast these regulations have kicked in, you  
1209 know, it is like I hear from the businesses, but I have never  
1210 heard any of my businesses ever out there ever say this, that  
1211 they are not for clean air or clean water. They want to make  
1212 sure that is happening. But it is really the over-burdensome  
1213 regulations that they have to comply with.

1214 But if I could, you also show on page five of your  
1215 testimony on the time required for processing your permit to  
1216 drill on federal versus state lands, and you point out that  
1217 the Institute for Energy Research testified that it currently  
1218 takes more than 300 days to process a permit to drill for oil  
1219 and gas on federal lands on shore while it takes less than 1  
1220 months to process a permit for the same drilling activities  
1221 on state and private lands. And also you point out in your  
1222 graph on page five that Ohio in particular is one of the  
1223 fastest permit processing states. Would you agree that  
1224 Ohio's efficiency does not make them less environmentally  
1225 protected?

1226 Mr. {Kovacs.} I would agree with that, certainly.

1227 Mr. {Latta.} Now, why would you agree with that?

1228 Mr. {Kovacs.} Well, when you understand the permitting

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1229 system, to just even start a permit you have to do a whole  
1230 series of things. You have to do engineering drawings. You  
1231 have to do testing of the air, the water. You have to do  
1232 site plans. All of that must be done in order even to file  
1233 for a permit. And so when they review it, the agency reviews  
1234 the technical data, and the technical data is going to be  
1235 almost virtually the same in Ohio or with the federal. The  
1236 difference between the two programs is that in the federal  
1237 program, if there is any federal nexus at all, the program  
1238 moves into an area where there is no coordination. By that I  
1239 mean there is really no one running the show. There are no  
1240 time limits on when the permit has to be reviewed. And  
1241 anyone can jump into the permitting process at any time, and  
1242 you can go into a conflict between state, the environmental  
1243 impact statements and federal, even if they have the same  
1244 laws.

1245       So when you go under state law, you are getting a much  
1246 faster process because you just don't have as many ways in  
1247 which to stop the problem, and it is managed closer to a  
1248 business which I believe someone had talked about. And the  
1249 approach that we have been arguing and the House has been  
1250 forward on and the Senate is, put someone in charge of the

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1251 program. We are not telling them what to do. Give them a  
1252 role as a lead agency and to coordinate. Give everyone time  
1253 limits in which to participate. If they don't want to  
1254 participate in the time limits, then they don't have to, but  
1255 then they are out of the program, and make a decision. And  
1256 that is really what the key--we are not talking substance  
1257 here. We are talking process.

1258 Mr. {Latta.} So is this how when you, in your  
1259 testimony, also state about improving and streamlining the  
1260 process? Is that how you go about it or other ways you see  
1261 it?

1262 Mr. {Kovacs.} No, that is how we would go about it.

1263 Mr. {Latta.} Okay. Thank you very much, Mr. Chairman.  
1264 I yield back.

1265 Mr. {Shimkus.} The gentleman yields back his time. The  
1266 chair now recognizes the ranking member of the subcommittee,  
1267 Mr. Tonko, for 5 minutes.

1268 Mr. {Tonko.} Thank you, Mr. Chair. I am very  
1269 interested in today's testimony about ways to improve our  
1270 environmental monitoring through better technology at the  
1271 state level and through greater public participation.  
1272 Obviously the sooner pollution is detected, the faster it can

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1273 be contained and remediated. For example, an inspection of  
1274 the tank that leaked in West Virginia could have prevented  
1275 widespread harm, but inspections require resources, both from  
1276 the regulatory agency and the regulated entity.

1277 With that being said, Mr. Slesinger, you testified that  
1278 EPA is planning to reduce the number and frequency of  
1279 inspections it conducts. Is that correct? Did I hear that  
1280 correctly?

1281 Mr. {Slesinger.} Yes, in their strategic plan there is  
1282 a substantial reduction in the amount of enforcement action,  
1283 civil actions, inspections going forward, mainly because of  
1284 the reduction in budget.

1285 Mr. {Tonko.} Do you have concerns about the impact that  
1286 that shift would have on compliance?

1287 Mr. {Slesinger.} We are very concerned. As Ms. Marks  
1288 mentioned, the key to compliance in her State was walking  
1289 around. It is with a new, high-tech gadget that makes it  
1290 much more efficient, but the key is getting someone to do the  
1291 walking around. And as you mentioned in the spill in West  
1292 Virginia, it had been I think decades before someone from the  
1293 State had been on that site.

1294 So if you are going--yes, if you use these high-tech

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1295 technology, you can probably do more with less, but when the  
1296 less is so much less that you are doing significantly less,  
1297 feet on the ground, going to sites, helping people get in  
1298 compliance, you are going to have more problems.

1299 Mr. {Tonko.} Well, I had served in our State  
1300 Legislature in New York for 25 years, and I know that we have  
1301 a sound track record with the environment. But I would have  
1302 to agree that all states do not play the same degree of  
1303 intense role in enforcing many environmental regulations.

1304 Dr. Wasson, can you briefly describe some of the  
1305 problems you have seen in state enforcement of environmental  
1306 regulations? I know you mentioned some, but can you share  
1307 some other scenarios with us, please?

1308 Mr. {Wasson.} Sure. I think what it boils down to time  
1309 and again it takes us filing a lawsuit or entering in some  
1310 sort of proceeding to get the states to act. They are not  
1311 doing it on their own. That is true in North Carolina. That  
1312 is true in Kentucky in the examples I gave in my written  
1313 testimony. It is true in other states that we worked in.

1314 And so I think you have a lot of hard-working and very  
1315 well-intentioned state regulators that are strapped for the  
1316 resources to do their jobs effectively. And that is, you

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1317 know, what it really boils down to. In the State of North  
1318 Carolina, we just cut the funding by as much as I think 25  
1319 and then on top--more than 25 percent for our State agency.  
1320 They just can't do the job that we mandate them to do with  
1321 the resources that are available to them, and I really think  
1322 that that is the underlying problem.

1323 Mr. {Tonko.} Right. I know that a number of states and  
1324 organizations have indicated that doing more with less has  
1325 now become doing less--

1326 Mr. {Wasson.} That is exactly right.

1327 Mr. {Tonko.} --with less. What role can informed  
1328 citizens play in your view in informing environmental  
1329 regulation?

1330 Mr. {Wasson.} Well, it is informed citizens, you know,  
1331 in the cases that I gave of, you know, fraudulent water  
1332 quality monitoring in Kentucky or the leaking coal ash  
1333 impoundments in North Carolina. It is engaged citizens that  
1334 is entirely responsible for why we have any enforcement  
1335 actions at all.

1336 So it is our job as environmental advocates is to get  
1337 more citizens engaged. I liked very much what Ms. Marks had  
1338 to say, that citizens being the eyes and ears of the state

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1339 agencies. We also very much see it that way, and I think  
1340 that there is a role to play for citizens when the state  
1341 agencies just are not able to fulfill their mandate.

1342 Mr. {Tonko.} And what are some of the steps that your  
1343 organization has taken to empower citizens to monitor and  
1344 enforce environmental laws?

1345 Mr. {Wasson.} The Appalachian Citizens Enforcement  
1346 Project that I spoke about in my written testimony is one  
1347 example where we are actually going out and we are training  
1348 people to monitor the water quality in streams near their  
1349 homes. We are providing them with the equipment to do that  
1350 as well as some expert consulting to help answer questions  
1351 and help them do something with that information. It is one  
1352 thing to find that the water across the, you know, road from  
1353 your house is polluted. It is another to actually take  
1354 action on that and get that problem corrected.

1355 And so, you know, it takes a lot of hand-holding,  
1356 honestly, for regular citizens to be able to engage at that  
1357 level, but it is possible, and we are proving it is possible.  
1358 We are working with groups all across Appalachia that are  
1359 every day proving that it is possible to get people engaged  
1360 in this.



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1361           Mr. {Tonko.} And I know my 5 minutes have expired, so I  
1362 will yield back.

1363           Mr. {Shimkus.} The gentleman yields back his time. And  
1364 the chair now recognizes the gentleman from West Virginia,  
1365 Mr. McKinley, for 5 minutes.

1366           Mr. {McKinley.} Thank you, Mr. Chairman. In light of  
1367 some of the testimony that has been given, I would like to  
1368 ask unanimous consent that this article by Dr. Borak be  
1369 included in the file.

1370           Mr. {Shimkus.} Let me--I am sure we will accept it, but  
1371 let me make sure the minority has taken a look at it. And  
1372 you can go ahead, and we will make that request.

1373           Mr. {McKinley.} I think what Dr. Borak says in light of  
1374 some of the comments that have been made here is that I think  
1375 we have heard once again there seems to be an attack on the  
1376 coal industry on West Virginia. I thought we were having a  
1377 panel on modernization and how we work, but this has turned  
1378 into a little bit on the part of some of the folks one more  
1379 attack on our coal miners in the industry. And what Borak  
1380 goes on--his report says coal mining is not per se an  
1381 independent risk factor for increased mortality in  
1382 Appalachia. Appalachians suffer disproportionately poor

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1383 health and significantly higher mortality rates than the rest  
1384 of the nation. The Appalachian counties with the poorest  
1385 health are also the most economically depressed, least  
1386 educated and those with limited access to social and medical  
1387 services.

1388         So to try to connect that to mountaintop mining is a  
1389 stretch. There may be a connection. I am not going to  
1390 dispute that. But I think we have to take other things into  
1391 consideration. Smokeless tobacco or tobacco use. I didn't  
1392 see that on the chart to see whether or not that. I didn't  
1393 see a chart about diabetes. Could that be affecting health  
1394 and cancer issues with that?

1395         So I think we have to be fair when we are doing these  
1396 kinds of reports that we have an--try to be more unbiased  
1397 than what I have heard in this testimony so far.

1398         Also Dr. Wasson, in your report you talked about the  
1399 sports fishing industry creates more jobs than the surface  
1400 coal mining. And maybe it does. Maybe it does. But I tell  
1401 you, the coal mining jobs that are being paid \$50,000 and  
1402 \$70,000 a year are far better than the sports fisherman that  
1403 may be in the \$25,000 job. If we are trying to get these  
1404 people out of poverty, we need to have good-paying jobs, and

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1405 once more, an attack on the coal industry because we have got  
1406 counties in West Virginia and Eastern Kentucky that just  
1407 simply don't have other alternatives. That is what they say.  
1408 They are economically depressed, and to take away something  
1409 that is a good-paying job is really a threat to their  
1410 livelihood.

1411 So I think we have to be careful about jumping to  
1412 conclusions. I wish one of the proponents that were here  
1413 today to continue on with this discussion instead of skipping  
1414 out. But you also raise a good point, Dr. Wasson, about  
1415 Yarmuth. Yarmuth's bill is interesting, and I hope it does  
1416 get a hearing. I think we need to have those kind of--we  
1417 can't be afraid in Congress to talk about tough subjects.  
1418 But at the same time it was announced earlier today that we  
1419 have 321 bills sitting over in the Senate, not being acted  
1420 on.

1421 So I would say that perhaps maybe that is a good trade.  
1422 If we are going to take up Yarmuth's bill, then maybe other  
1423 body ought to take up some of the bills that we have sitting  
1424 over there that have to do with jobs, healthcare, coal mining  
1425 and the like.

1426 Let me touch just closing again with your issue about

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1427 the fly ash because I think your group and some of the groups  
1428 that you represent were opposed to the fly ash bill as passed  
1429 out of the House four times. It is one of those bills that  
1430 is sitting over--the 321 that is sitting over there in the  
1431 Senate without action. It would have addressed all of the  
1432 problems that you have talked about, all the leakage. The  
1433 fly ash bill, the legislation of the coal ash bill took care  
1434 of impoundments. It took care of dam safety. It took care  
1435 of water leakage. All those issues were taken--but yet  
1436 groups that you are engaged with opposed the legislation. I  
1437 think it is hypocritical that you are coming here and telling  
1438 us that we need to do it when we have done that. We have  
1439 passed that, but the Senate, the other body, won't take those  
1440 bills up.

1441 I hope that you can be more fair in your assessment in  
1442 the future, all of you, as we address these issues of  
1443 modernization. Let us stay to the subject matter.

1444 So are you telling me that Randy Hoffman, the DEP, is  
1445 incapable of handling issues in West Virginia on DEP?

1446 Mr. {Wasson.} I do not in any way mean to impugn Mr.  
1447 Hoffman and--

1448 Mr. {McKinley.} But you have used the--

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1449 Mr. {Wasson.} --and his ability to do his job.

1450 Mr. {McKinley.} --Freedom Industry's tank. You have  
1451 talked about the surface mining. All of those issues come  
1452 under his purview, and you are denigrating him. You are  
1453 running him down. Is that fair?

1454 Mr. {Wasson.} I am saying the facts on the ground show  
1455 that the goal, the environmental outcomes that we would  
1456 expect, are not being achieved. The health of people--

1457 Mr. {McKinley.} Should he be fired?

1458 Mr. {Wasson.} --in those counties--

1459 Mr. {McKinley.} Should he lose his job?

1460 Mr. {Wasson.} That is--I do not have a position on  
1461 whether or not Mr. Hoffman should have his job. I am simply  
1462 observing that if we look at just the science, just the  
1463 environmental outcomes that we see on the ground in West  
1464 Virginia, they are not being achieved, what we should expect.  
1465 When people in Southern West Virginia counties have the same  
1466 life expectancy of somebody in Iran or Syria or Vietnam,  
1467 there is something--

1468 Mr. {McKinley.} I have run over my time, but I would  
1469 sure like to see it because I think that who has in Vietnam--  
1470 is age 36, 37 in Vietnam? I think the life expectancy is

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1471 very much greater than 36 and 37 in Southern West Virginia.

1472 And I am sorry that I have run over my time, Mr. Chairman.

1473 Mr. {Shimkus.} The gentleman's time has expired. I did

1474 consult with the minority, and without objection, I would ask

1475 for the article authored by Jonathan Borak be accepted into

1476 the record. Without objection, so ordered.

1477 [The information follows:]

1478 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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1479           Mr. {Shimkus.} The chair now recognizes the gentleman  
1480 from Texas, Mr. Green, for 5 minutes.

1481           Mr. {Green.} I would like to thank you, Chairman, and  
1482 our Ranking Member Tonko for holding today's hearing and  
1483 welcome our distinguished panelists for joining us.

1484           I want to turn to a law that this subcommittee passed in  
1485 2012 with strong bipartisan support, the Hazardous Waste  
1486 Electronic Manifest Establishment Act finally gave the EPA  
1487 the authority and the resources it needed to develop an e-  
1488 Manifest system for hazardous waste shipping. This law is a  
1489 prime example of how technology can improve environmental  
1490 protection outcomes while providing measurable burden  
1491 reductions for the states in the regulated community.  
1492 Although still in the works, the states and industry are  
1493 expected to save \$75 million under this new electronic system  
1494 for waste shipment manifest.

1495           Ms. Marks, do you expect your department and the  
1496 regulated entities in your states to benefit from the new e-  
1497 Manifest system?

1498           Ms. {Marks.} Yes, sir. I think certainly that that is  
1499 something that will benefit the states in our attempts to

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1500 regulate. There are always instances where you need to know  
1501 if there are things that are on the regs in your states that  
1502 you need to be mindful of. It certainly helps to have that  
1503 transparency for the public, too. It is just reassuring to  
1504 the public to know that there is nothing that anybody is  
1505 trying to cover up in that regard.

1506 Mr. {Green.} Mr. Cash, what about Massachusetts?

1507 Mr. {Cash.} Yeah, we approach this in the same kind of  
1508 way as Ms. Marks. We are all on board with this. We think  
1509 it creates the kind of transparency and tracking of these  
1510 kinds of materials. It is critically important.

1511 Mr. {Green.} Mr. Darwin, Arizona is kind of like Texas.  
1512 We have a lot of cross border. Do you expect benefits in  
1513 reduce burdens in Arizona?

1514 Mr. {Darwin.} Yes, sir, I do. I think any time you can  
1515 transfer resources from shuffling paper to analyzing data, it  
1516 benefits everyone.

1517 Mr. {Green.} Okay. Do you think that the experience  
1518 with e-Manifest can serve as an example for other E-  
1519 Enterprise projects?

1520 Mr. {Darwin.} Mr. Green, I think that the only thing  
1521 that I would suggest be different between what EPA has done



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1522 with the e-Manifesting system and what they are doing with  
1523 the E-Enterprise system is involving states in the design of  
1524 the system. I think EPA has recognized--and I applaud them  
1525 for recognizing--the role the states play in implementing  
1526 environmental regulations throughout this country. And I am  
1527 hopeful that in implementing their E-Enterprise system--and  
1528 the proof is that they have been doing that so far--is that  
1529 they will involve the states more heavily in the development  
1530 of future systems.

1531 Mr. {Green.} Obviously I agree because I joke in Texas  
1532 it must be in our DNA that we disagree with the EPA  
1533 generationally. But again, the partnership makes it much  
1534 more easier.

1535 Mr. Slesinger, you worked closely on e-Manifest for many  
1536 years and continue to follow its implementations. What  
1537 lessons should we in Congress and regulators at the state  
1538 level learn from e-Manifest for other E-Enterprise  
1539 initiatives?

1540 Mr. {Slesinger.} I think there are quite a few lessons  
1541 I think that can be learned, but I think the most important  
1542 one and I think E-Enterprise has taken that on and that is to  
1543 work very closely with the states. When you try to uniform a

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1544 system, like manifest reporting, you already may have a lot  
1545 of different programs already under way in the different  
1546 states. So getting the states to work with the Federal  
1547 Government together and everyone agreeing to compromise  
1548 because it is really hard for Connecticut to say, well, we  
1549 need a uniform system that looks exactly like Connecticut,  
1550 and Tennessee and Arkansas have a somewhat similar view about  
1551 how there has to be uniform--so keeping the states involved  
1552 early and consistently and everyone compromising a little is  
1553 really key.

1554 Mr. {Green.} For each of your states, would it be  
1555 better for--would you be better served if the US EPA had  
1556 greater resources to work with that, with each state, to make  
1557 sure it is coordinated?

1558 Mr. {Darwin.} The basic answer is yes. The more  
1559 resources and assistance that we get from EPA at this point,  
1560 the better. As was seen in my testimony, we have had cuts in  
1561 the order of 30 percent over the last 8 to 10 years, and it  
1562 becomes increasingly difficult to do the kinds of compliance,  
1563 permitting and enforcement that we need to, and assistance  
1564 from EPA, particularly on these issues in which there is  
1565 cross-state transfer of, in this case, hazardous waste, it is

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1566 something that we would like to partner with EPA on.

1567           Mr. {Green.} Mr. Chairman, I am almost out of time. It  
1568 seems that we have a lot of opportunities to build on the  
1569 success of our e-Manifest and improve the process of  
1570 regulated entities and get better outcomes, and I would like  
1571 to thank you and the ranking member holding the hearing. I  
1572 yield back.

1573           Mr. {Shimkus.} The gentleman yields back his time. I  
1574 have got a question for the gentleman. Do you remember who  
1575 were the sponsors of the e-Manifest legislation? Do you  
1576 remember who moved that through the House? I think it was a  
1577 Mr. Green and a Mr. Shimkus who were the original authors,  
1578 but my memory doesn't serve me well. It didn't end up that  
1579 way. It ended up a John Thune bill in the Senate after they  
1580 mashed it up. But I thought you were being very humble in  
1581 those questions.

1582           The chair now recognizes the gentleman from  
1583 Pennsylvania, Mr. Murphy, for 5 minutes.

1584           Mr. {Murphy.} Thank you, Mr. Chairman. Good to have  
1585 you all with us today. I first want to bring to the  
1586 attention of Mr. Slesinger and Dr. Wasson, when I was in  
1587 college in West Virginia, I spent a lot of time in

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1588 Appalachian areas that were affected by a lot of poverty and  
1589 a lot of coal problems out there. And I have spent my time  
1590 also in doing everything from the Buffalo Creek gob pile  
1591 disaster I believe before you were born, sir. But it was  
1592 brutal, the things that happened down there.

1593 But one of my concerns we have sometimes with  
1594 environmental groups is misleading data. I want to--you  
1595 showed us a couple maps of lifespan and cancer, and I think  
1596 you were trying to relate that to mountaintop mining. Let me  
1597 show you a map here first of--I believe this is poverty rates  
1598 in Appalachia.

1599 [Chart]

1600 Mr. {Murphy.} It is the same. Now let me show you the  
1601 next map, unemployment.

1602 [Chart]

1603 Mr. {Murphy.} The problem is people don't have jobs,  
1604 and when you have issues of people unemployment and don't  
1605 have jobs, you have a number of health effects, increased  
1606 asthma, increased cancer, depression, mental health problems,  
1607 shorter life expectancy associated with that. It is when  
1608 people aren't working. And much of that not working is we  
1609 have a lot of closed mines, abandoned mines, closed coal-

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1610 fired power plants. I really hope that the environmental  
1611 groups can work with us in finding solutions and unleashing  
1612 the vast brilliance of American technology to find solutions  
1613 for this different from shutting it down. And I welcome any  
1614 opportunity to discuss that with you folks there because the  
1615 poverty in those parts of the country, particularly Eastern  
1616 Kentucky where you have some of the--and parts of Western  
1617 Virginia, we have a 40-percent unemployment rate. Forty  
1618 percent and eight times the national rate of substance abuse.  
1619 It is brutal.

1620 And parts of my district, however, are saved even though  
1621 in Green County, something like 30 percent of their income is  
1622 dependent upon coal. Thank goodness they have Marcellus  
1623 shale because that is something they can have for some income  
1624 there. To which case I then turn my attention to Ms. Marks  
1625 and talk about Arkansas a little bit which my family is from.  
1626 You may have heard of Murphy Oil?

1627 Ms. {Marks.} Yes, sir.

1628 Mr. {Murphy.} I am not from that side of the family.

1629 Ms. {Marks.} I am sorry.

1630 Mr. {Murphy.} We went into healthcare, but from the El  
1631 Dorado Murphies and the Springdale Murphies out there and

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1632 part of that Fayetteville shale is out there, but we went to  
1633 healthcare.

1634 But I want to ask about the role of the Department of  
1635 Environmental Quality. How does that--what is their role in  
1636 the regulation of natural gas exploration in Arkansas?

1637 Ms. {Marks.} We actually share that role with the Oil  
1638 and Gas Commission. We would like to say that we deal with  
1639 the service facilities, and they deal with the drilling  
1640 facilities.

1641 We have a memorandum of understanding with them that  
1642 they deal with the actual drilling process itself, the  
1643 construction of the wells, those kinds of things. They  
1644 permit those. We deal with the ponds on site, the water  
1645 issues, all of those types of things.

1646 Mr. {Murphy.} And how many state regulators do you have  
1647 that monitor all these in the state?

1648 Ms. {Marks.} We have--I can't speak for the Oil and Gas  
1649 Commission. They have a number of inspectors that go out on  
1650 site. We have in our water vision, which is where we are  
1651 involved most closely with Oil and Gas, we have 17  
1652 inspectors, and we also have four inspectors that are  
1653 dedicated solely to natural gas issues. We were able to

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1654 partner with the Oil and Gas Commission and get money from  
1655 them through a memorandum of agreement that allows us to do  
1656 joint inspections with them.

1657 Mr. {Murphy.} And how many regulators does EPA have in  
1658 Arkansas to deal with the same thing?

1659 Ms. {Marks.} They don't have any regulators actually  
1660 located in Arkansas. Dallas is the closest one.

1661 Mr. {Murphy.} Now, you have moved toward electronic  
1662 reporting in Arkansas. So how has this affected the speed of  
1663 time in moving forward in the thoroughness of reviewing  
1664 permitting?

1665 Ms. {Marks.} It has been a great help, and it will be  
1666 much more of a help when we actually get it fully  
1667 implemented. But the fact that we don't have to deal with  
1668 paper copies and uploading information into a database that  
1669 then goes to EPA has saved a tremendous amount of time for  
1670 both us and the regulated community.

1671 Mr. {Murphy.} Do you also maintain records of chemicals  
1672 used for fracking in natural gas--

1673 Ms. {Marks.} The Oil and Gas Commission does. That is  
1674 on their website, and it is open to the public.

1675 Ms. {Marks.} And it is required they have to file full

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1676 disclosure in Arkansas?

1677 Mr. {Murphy.} They have to file disclosure. I am not  
1678 sure of the actual specifics of that law, but they do have to  
1679 disclose the materials in fracking fluids in Arkansas.

1680 Mr. {Murphy.} Also with regard to ponds there, do you  
1681 maintain public records with regard to content in those ponds  
1682 and any leaks in them or any environmental hazards associated  
1683 with them so the public can also review those?

1684 Ms. {Marks.} Yes, sir. We have certain requirements.  
1685 Our ponds are permitted on the basis of a permit by rule, and  
1686 those ponds have to have a certain--they have to have below a  
1687 certain level to be able to be put in those outside ponds and  
1688 they have to be lined a certain way, constructed a certain  
1689 way.

1690 Mr. {Murphy.} EPA has told us that there are not  
1691 necessarily problems with those. Have you found problems  
1692 with regard to any leaks or problems with groundwater  
1693 contamination of any kind with those?

1694 Ms. {Marks.} Not so much with groundwater  
1695 contamination. Surface water contamination we have. You  
1696 know, you have sometimes ponds are going to fail, and  
1697 sometimes you have people that don't follow the right



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1698 construction process. And we will have contamination with  
1699 adjacent waterways but nothing that has been, I would say,  
1700 completely horrible. I mean, we have had leaks that we have  
1701 had to address. We have had some minor fish kills, but that  
1702 is about--that is rare, but it has happened.

1703 Mr. {Murphy.} Okay.

1704 Mr. {Shimkus.} The gentleman's time has expired. Just  
1705 to let people know, the committee rules are that the  
1706 committee and the subcommittee get to ask questions first and  
1707 then guests, like Mr. Yarmuth, will get a chance at the end  
1708 once all the committee members have asked their questions.  
1709 And so with that, I will turn to Congressman Johnson from  
1710 Ohio. He is recognized for 5 minutes.

1711 Mr. {Johnson.} Thank you, Mr. Chairman. I appreciate  
1712 that. Director Darwin, in your review of processes that  
1713 required improvement, what activities constituted the places  
1714 most in need of reform or elimination in your view?

1715 Mr. {Darwin.} Thank you, Congressman Johnson. It is a  
1716 great question, and the fact of the matter is that what we  
1717 have found is that there is no process that couldn't use some  
1718 sort of improvement. Studies have shown that whenever you  
1719 review a process, about 80 percent of the process is wasteful

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1720 from a document sitting on someone's desk from a document  
1721 transferring from one desk to another, from errors that have  
1722 occurred within the document.

1723         So as an agency, we have been reviewing every single one  
1724 of our processes for whether or not it warrants improvement  
1725 or not. We have done everything from the long lead-time  
1726 permits that we issue, those permits that take the longest.  
1727 I think the chairman mentioned that we have seen a 60 percent  
1728 reduction in that timeframe. We have reduced the time it  
1729 takes for a public records request by 80 percent, for us to  
1730 respond public records request by 80 percent over the past 2  
1731 years as well. The time we see from us identifying a  
1732 violation from it being corrected, that period of time is  
1733 reduced by over 50 percent over the same period of time.

1734         So as an agency, we have been reviewing every single one  
1735 of our processes, acknowledging that every process can be  
1736 improved and prioritizing them based upon their impact to the  
1737 environment.

1738         Mr. {Johnson.} Okay. Well, you indicated in your  
1739 written testimony that there is a, and I quote, ``a lot of  
1740 wasted effort imbedded in the current process and that it  
1741 invites error and delay in evaluating adherence to

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1742 environmental requirements. Can you give us some examples,  
1743 specific examples?

1744           Mr. {Darwin.} Absolutely. You know, most environmental  
1745 protection programs rely heavily on self-monitoring  
1746 reporting. We heard a lot about that today. This means that  
1747 the entity must collect data and report the data to the  
1748 responsible government entity, and they largely do this via  
1749 paper. This is despite the fact that the rest of the  
1750 business world is reporting on the things that they do, even  
1751 we do, electronically. Think of our online bank accounts  
1752 that we have and how we have demanded as a public that we  
1753 have access to the information that our banks have  
1754 electronically.

1755           If we choose to follow a pure paper operation, it  
1756 results in slow transactions and they are wrought with human  
1757 error. Electronic reporting, on the other hand, is much  
1758 quicker. It contains less error and allows for almost  
1759 immediate feedback about whether or not there is a need for  
1760 corrective action. When we receive electronic information  
1761 from those who we regulate, we can give immediate feedback of  
1762 whether or not they are complying with environmental  
1763 requirements, and they can take corrective action to resolve

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1764 those issues.

1765 Mr. {Johnson.} Do you see similar issues at the federal  
1766 level?

1767 Mr. {Darwin.} Absolutely, and I think that it is  
1768 imperative that we understand that the Federal Government has  
1769 acknowledged that as well through the e-Manifesting system  
1770 they have developed, through the eDMR system under the Clean  
1771 Water Act that they are also looking into, and then this E-  
1772 Enterprise program that they have been partnering with the  
1773 states is really their acknowledgement that they are dealing  
1774 with the same issues the states are on needing to transfer  
1775 their operations into the 21st century.

1776 Mr. {Johnson.} Okay. Please explain for us how  
1777 confidential business information will still be protected  
1778 with information technology sharing like--and I hope I am  
1779 pronouncing this right--MyDEQ? Is that how you say that?

1780 Mr. {Darwin.} Absolutely.

1781 Mr. {Johnson.} Are developed and used.

1782 Mr. {Darwin.} Yes, sir. This is a concern that we have  
1783 heard from our business community in Arizona, and what I  
1784 respond to them and I will respond to you in the same way is  
1785 that there are certain laws within Arizona that protect

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1786 confidential business information, and those laws remain  
1787 unchanged regardless of how we receive the information. The  
1788 fact of the matter is though that the information that we are  
1789 receiving, even if it is not confidential business  
1790 information, still may be subject to public records laws.  
1791 And so as we are receiving this electronic information, our--  
1792 disseminating that information and making that information  
1793 publically available is something that we have to work with  
1794 our regulated community to make sure that we are fulfilling  
1795 their expectations and also our obligations in our public  
1796 records laws.

1797       Mr. {Johnson.} Okay. Final question for you. How does  
1798 the fee-for-service model and having a significant portion of  
1799 Arizona's DEQ's budget from fees and other revenue from the  
1800 regulative community improve compliance and environmental  
1801 protection in Arizona?

1802       Mr. {Darwin.} Congressman Johnson, I am sure you are  
1803 referring to the fact that my agency was taken off the  
1804 general fund 3 years ago. That means that our budget is made  
1805 up of 85 percent fees from our related community and 15  
1806 percent from the Federal Government through grants from EPA.  
1807 What this has caused us to do is to become much more

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1808 responsive to our regulated community. It only makes sense.  
1809 They are paying for 85 percent of our budget. They deserve  
1810 some additional attention from us. And the fact of the  
1811 matter is when I was going before our legislature and asking  
1812 for the ability to increase fees to fund my agency, I had to  
1813 make commitments to the regulated community to get their  
1814 support. And the commitment that I made to them was that I  
1815 would issue permits to them quicker so they could do the  
1816 business that they were asking to perform in Arizona and  
1817 quicker as well.

1818         So I fulfilled that commitment by becoming more  
1819 responsive to them because of the fact that they are now 85  
1820 percent of my budget.

1821         Mr. {Johnson.} Okay. Thank you, Mr. Chairman. I  
1822 yield.

1823         Mr. {Shimkus.} The gentleman yields back his time. And  
1824 the chair now recognizes the gentleman from Florida, Mr.  
1825 Bilirakis, for 5 minutes.

1826         Mr. {Bilirakis.} Thank you, Mr. Chairman. I appreciate  
1827 it. I have one question for Mr. Kovacs. Arizona removed the  
1828 budget for the Department of Environmental Quality, and I  
1829 know you referred to it just now, another witness did, from

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1830 the general fund in favor of fee-for-service model. Does the  
1831 Chamber support such a move like that for the states?

1832 Mr. {Kovacs.} Well, it is certainly an interesting  
1833 concept, and I would like to see more data about it. But I  
1834 think--I am sorry. No, I think it is on. And I would like  
1835 to see more data, but--

1836 Mr. {Shimkus.} Just pull it a little bit closer and I  
1837 think that will be--make the--

1838 Mr. {Kovacs.} You know, it is a fascinating concept.  
1839 The states overall receive roughly about 60 percent of their  
1840 budget I think, 45 to 60 percent, from fees anyway. And on  
1841 the fee issue, in some states, I believe even like California  
1842 for an example, for an environmental impact statement, the  
1843 developer actually pays.

1844 I don't think anyone is asking--because they pay, that  
1845 doesn't mean they get any special treatment. What it means  
1846 is is that they have paid for a service. If you buy a book  
1847 on Amazon, you expect the book. If you pay for a filing fee  
1848 for a hazardous waste facility or solid waste facility, you  
1849 expect that the state will review it. You still have to  
1850 comply with all the same tests. You still have to comply  
1851 with the engineering drawings, the zoning requirements, all

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1852 of the--anyone who wants to sue can still sue. All of that  
1853 is still in place, and if the state makes a mistake or there  
1854 is a violation, the state has enforcement authority or they  
1855 deny the permit. But what the business community never asks  
1856 for is special treatment. They ask for the service that they  
1857 would be paying for, and I think that on states like Arizona,  
1858 I think that you have got a, you know, a good laboratory.

1859 Mr. {Bilirakis.} Very good. Anyone else wish to  
1860 comment on the fee-for-service model?

1861 Mr. {Slesinger.} I would, Congressman. We believe it  
1862 is not the best way for the government to operate is that the  
1863 regulator control the budget of the regulator. The example  
1864 though as just mentioned, that the state had to agree to be  
1865 faster with approving permits as a prerequisite to get the  
1866 needed fees to run I think is a bad precedent. Shouldn't the  
1867 priority be possibly something else that is more protective  
1868 of the general public and protecting the environment and  
1869 public health as opposed to speeding up the processes for a  
1870 permit.

1871 As I said in my testimony, the propriety of  
1872 environmental agencies should be enforcing the environmental  
1873 laws. Making the paperwork system work better is a very nice



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1874 secondary. But when that secondary group is essentially  
1875 controlling and having the impact to say what the budget and  
1876 priorities are going to be is a very bad way to go.

1877 Mr. {Shimkus.} Would the gentleman yield, Mr.  
1878 Bilirakis?

1879 Mr. {Bilirakis.} Yes, I will.

1880 Mr. {Shimkus.} I would just point out that the NRDC in  
1881 the pesticide regulation obviously endorsed obviously the  
1882 stakeholders paying into the system for identifying and then  
1883 application and approval process.

1884 I would also say that we do that a lot in the drugs and  
1885 devices world that we deal with all the time. The user-fee  
1886 system has been very successful in trying to force the  
1887 bureaucracy to move rapidly to--in a timely manner to get a  
1888 decision. It could be a yes, it could be a no. But at least  
1889 when you have a period of time where you don't know when a  
1890 final decision will be made, that is problematic.

1891 Mr. {Slesinger.} That--

1892 Mr. {Shimkus.} Actually I want to ask my colleague from  
1893 Florida if I can finish up and ask another question.

1894 Mr. {Bilirakis.} Absolutely.

1895 Mr. {Shimkus.} And I need to go to Mr. Cash just for

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1896 this issue. Can you provide more details on why the E-  
1897 Enterprise for Environment Initiative between the states and  
1898 the EPA is important for Massachusetts?

1899 Mr. {Cash.} Yeah. As I had mentioned before, implied  
1900 before, there are many different programs that we have that  
1901 overlap with EPA that we do in collaboration with EPA, and we  
1902 don't want to be in a situation as we move to an electronic  
1903 system, as we are in Massachusetts, as many other states are,  
1904 in which we replicate the kind of different layers of  
1905 regulation that we have on a paper system. We don't want to  
1906 do a similar kind of system electronically. We don't want to  
1907 be in a situation where our permittees are applying online in  
1908 Massachusetts and then have to do a similar thing on a  
1909 different system for EPA.

1910 And so really important that we coordinate these things  
1911 across the different levels, and that is one of the reasons  
1912 we have been so engaged in this.

1913 Mr. {Shimkus.} Thank you very much.

1914 Mr. {Tonko.} Mr. Chair? Can I ask Mr. Slesinger to  
1915 respond to that? I believe he--

1916 Mr. {Shimkus.} It is the gentleman from Florida's time.  
1917 Mr. Bilirakis, do you want to yield the remainder of your

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1918 time to--

1919 Mr. {Bilirakis.} Yes. Yes, I will.

1920 Mr. {Shimkus.} Then yes.

1921 Mr. {Bilirakis.} One second.

1922 Mr. {Slesinger.} Thank you, Mr. Bilirakis. I think the  
1923 difference with pesticides in the funding of that program and  
1924 approval, was that was an additional delta. It did not come  
1925 as it did in the other case that was mentioned out of the  
1926 base budget. You are not going to get your base budget  
1927 unless you took care of this priority first, whereas a  
1928 pesticide add-on, which is a fee, is a delta on top of the  
1929 normal EPA budget.

1930 Mr. {Shimkus.} And I would just say, that is a credible  
1931 debate, but it is also a credible point to be made that the  
1932 user fees have been successful throughout the government  
1933 operations as far as streamlining and getting accountability.

1934 I would like to now recognize a very patient gentleman  
1935 from Kentucky, Mr. Yarmuth, for 5 minutes.

1936 Mr. {Yarmuth.} Thank you, Mr. Chairman. I appreciate  
1937 the courtesy of the subcommittee. Thanks to all the  
1938 witnesses. Thank you for your service.

1939 Dr. Wasson, I was pleased that in your testimony you

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1940 said it is important that we eliminate duplication and  
1941 streamline our regulatory processes. That makes total sense.  
1942 But that the foundation of any effective and efficient  
1943 regulatory process is scientific evidence and knowledge of  
1944 how certain practices impact the health and well-being of our  
1945 citizens.

1946 We hear a lot about the economic burden of regulation on  
1947 coal operators, but we also know there is a personal cost  
1948 paid by those families who live near coal mining sites. As  
1949 you have mentioned, a number of peer-reviewed studies have  
1950 shown that there are higher rates of cancer and mortality of  
1951 those living near mountaintop removal sites. I think there  
1952 are more than 20 of those studies. So would you kind of  
1953 elaborate in light of Mr. McKinley and Mr. Murphy's  
1954 statements about other factors what you are talking about  
1955 when you are talking about higher rates of cancer and  
1956 mortality and the evidence of them?

1957 Mr. {Wasson.} Sure. I am very familiar with the study  
1958 that Mr. McKinley entered into the record, and there is one  
1959 study they used different statistical methods to come to  
1960 their conclusions. I think what is so impressive about the  
1961 literature that shows health issues near mountaintop removal

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1962 mines just the sheer number of different independent sources  
1963 of data that point in that direction.

1964         So, you know, maybe there is some debate over some  
1965 statistical methods over some of those studies, but taken as  
1966 a whole, if you look at the entire body of evidence, it is  
1967 really pretty stunning. And again, it is independent. There  
1968 is almost 40 different researchers that have published on  
1969 these--you know, among these 21 different studies. And so I  
1970 think that that is really the biggest factor.

1971         And again, the tools that I talked about in my written  
1972 testimony where we provide information about, you know, these  
1973 maps that I showed, we also have the poverty information.  
1974 That could have been our maps as well. And the scientists  
1975 control for those factors. And so when they do a study, they  
1976 are looking at smoking rates and poverty rates and education  
1977 rates and factoring those into their analysis.

1978         And so yes, many of the things that other members have  
1979 said are true, but that does not in any way discredit the  
1980 studies we are talking about.

1981         Mr. {Yarmuth.} Right. Now, you spend a lot of time in  
1982 Appalachia and I have spent some time there. I am sure you  
1983 have seen this before. That is water that came from the

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1984 drinking well of the Urias family in Eastern Kentucky. That  
1985 is U-r-i-a-s for the recorder. Those of you who think that  
1986 is not dramatic, there is a contrast with normal water. And  
1987 you know, I think they don't need a Web site in their  
1988 neighborhood, in their community, to know that there is a  
1989 health problem associated with that water. If that were the  
1990 drinking water here in Congress, we not only wouldn't drink  
1991 it, we would not stand for it. And yet, people in  
1992 Appalachia, for those people, the Federal Government has yet  
1993 to conduct a single study examining the health impact of coal  
1994 mining on the communities that it inhabits. And that is  
1995 exactly the point that I think all of us agree on, Mr.  
1996 McKinley, Mr. Murphy. We need that kind of information,  
1997 scientific information, to determine what the impact on the  
1998 health of these citizens is, and the ACHE Act, which you  
1999 mentioned and Mr. McKinley may want to co-sponsor, if you  
2000 want to ask him, basically does that. It says we have to--  
2001 the Federal Government has to conduct a study on the health  
2002 impact of mountaintop removal before it issues anymore  
2003 permits.

2004 So can you tell me what the impact of such a law would  
2005 be, if it passed, on the health of the citizens of

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2006   Appalachia?

2007           Mr. {Wasson.}   Well, the study itself, it is a great  
2008   start, and it is long overdue. There is just no question  
2009   about it. There is too much information showing health  
2010   problems to continue to ignore. The other obvious impact is--  
2011   -a moratorium on issuing the mountaintop removal permits is  
2012   an excellent idea, and I don't think that we need any more  
2013   studies. The health studies aside, just the water quality  
2014   impacts, the rich scientific literature about the water  
2015   quality impacts of mountaintop removal, would justify such a  
2016   moratorium right now, today. And so, you know, I think that  
2017   that study as well as the moratorium would be an excellent  
2018   start.

2019           Mr. {Yarmuth.}   I thank you very much. Once again, Mr.  
2020   Chairman, thank you very much for your courtesy.

2021           Mr. {Shimkus.}   The gentleman yields back his time. And  
2022   seeing no other members present wishing to ask questions, we  
2023   really want to thank you. I think it was very--a little  
2024   broader on some of the issues, but I think as the chairman of  
2025   the subcommittee in trying to deal and reconcile and really  
2026   talking to a lot of Environmental Council of the States which  
2027   you all are kind of memberships and understanding the good

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2028 work that they are doing, understanding federal role and  
2029 setting standards as the ranking member of the Full Committee  
2030 keeps reminding me. How can we continue to work together?

2031 And the last point I will just make is that we have a  
2032 budgetary crisis, and we are always going to have that. And  
2033 our problem is mandatory spending which keeps eating away at  
2034 the discretionary budget, and the discretionary budget eats  
2035 away at the EPA's budget. So until we do Medicare, Medicaid,  
2036 Social Security, interest payments on our debt--and I would  
2037 encourage people, if they want the Federal Government to do  
2038 more, they need to help, engage, start talking about  
2039 reforming the entitlement programs.

2040 So with that I would like to adjourn. Thank you again  
2041 and adjourn the hearing.

2042 [Whereupon, at 11:46 a.m., the Subcommittee was  
2043 adjourned.]