

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

NEAL R. GROSS & CO., INC.

RPTS JACKSON

HIF300180

E-MANIFEST: AN UPDATE ON IMPLEMENTATION

TUESDAY, OCTOBER 27, 2015

House of Representatives,

Subcommittee on Environment and the Economy,

Committee on Energy and Commerce,

Washington, D.C.

The subcommittee met, pursuant to call, at 10:15 a.m., in Room 2322 Rayburn House Office Building, Hon. John Shimkus [chairman of the subcommittee] presiding.

Members present: Representatives Shimkus, Harper, Murphy, Latta, McKinley, Johnson, Bucshon, Flores, Hudson, Tonko, Schrader, Green, and Pallone (ex officio).

Staff present: Will Batson, Legislative Clerk; Jerry Couri, Senior Environmental Policy Advisor; A.T. Johnston, Senior Policy Advisor; David McCarthy, Chief Counsel, Environment and Economy; Tina Richards, Counsel, Environment; Chris Sarley, Policy

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

Coordinator, Environment and Economy; Dan Schneider, Press Secretary; Christine Brennan, Press Secretary; Jacqueline Cohen, Senior Counsel; Timia Crisp, AAAS Fellow; Rick Kessler, Senior Advisor and Staff Director, Energy and Environment; and Alexander Ratner, Policy Analyst.

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

1 Mr. Shimkus. I am going to call the hearing to order. And
2 before I recognize myself, I want to mention a few things on this
3 week's activities and schedule. This is a very busy and historic
4 week. And full House representatives, as we know, we also have
5 important work to do in the subcommittee. Today, we are finally
6 giving our friends of the EPA a chance to provide their progress
7 report on the e-Manifest program. The Agency has waited
8 patiently as we have been compelled to postpone today's hearing
9 twice for scheduling reasons beyond our control. But today is
10 finally here and we have always planned we will hear from a single
11 witness and only one panel. As the testimony submitted has not
12 changed from the first scheduled time for this hearing, our
13 questions will be pretty much the same as well.

14 Tomorrow, we have two activities, a hearing on the management
15 of low level nuclear waste and a subcommittee mark up of the
16 Senate's rural water technical assistance authorization. The
17 hearing is an important step as we all study the intricacies of
18 the entire nuclear waste issue. This is another in a series
19 designed to give members a sound understanding of all the facts
20 of this challenge so that we are on solid footing to act
21 legislatively when that time comes.

22 Finally, at the request of Mr. Pallone, we will give
23 subcommittee members a chance to vote on the Senate Rural Water
24 Technical Assistance Bill. This is a bill we had a hearing on

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

25 last week in which passed the Senate unanimously. If we can see
26 clearly to pass it without amendment on a strong bipartisan basis,
27 we can make it into law. And in doing so, we must thank
28 subcommittee Ranking Member Mr. Tonko, and our Vice Chair Mr.
29 Harper, for their leadership in getting us this far on the rural
30 water technical assistance.

31 To my knowledge, there is no substantive opposition to the
32 bill and most, if not all, look forward to helping our constituents
33 by advancing the bill to the President without amendment.

34 I am proud of the subcommittee members. We work hard in the
35 subcommittee in a bipartisan spirit. We have much work left to
36 accomplish in this Congress, so I am glad members are willing to
37 maintain this consistent level of effort to achieve that. And
38 I just wanted to make sure that we started understanding that we
39 have -- we are pushing it pretty hard on the subcommittee.

40 So with that, I would like to recognize myself for five
41 minutes for an opening statement.

42 The subcommittee is in order. This morning's hearing
43 focuses our panels on EPA's implementation of the electronic
44 program to receive, store, and make publicly available manifests
45 of hazardous waste. Creation of this system has been something
46 that EPA, the regulated industry, and environmental advocacy
47 groups have supported for quite some time as a way of modernizing
48 the carbon copied, paper clogged system in place.

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

49 Three years ago, enthusiasm was high for taking this Solid
50 Waste Disposal Act requirement into the 21st Century. In September
51 2012, Congress came together with solid bipartisan majorities to
52 permit EPA to collect the fee needed to set up the system EPA wanted
53 to operate. I think we all believed that not only would EPA be
54 able to continue tracking hazardous waste destined for treatment,
55 storage, or disposal; but the new system provided the collateral
56 benefits of increased transparency, access to critical
57 information for first responders, reduced reporting errors, and
58 greater accountability of waste management.

59 EPA asked for, and we gave them, three years to get the system
60 up and running. Working through some thorny funding concerns,
61 we authorized the money to make this happen. There was no reason
62 to believe the system would not be operational within that time
63 frame.

64 That was then.

65 Three weeks ago, yesterday, marked three years from the date
66 of enactment of the Hazardous Waste Electronic Manifest Act.
67 Under the law, EPA was supposed to have moved from the system
68 creation phase to its actual deployment. But, the system is not
69 ready for "prime time."

70 Moreover, while EPA has been given \$7.4 million to get this
71 system going -- \$1.4 million more than Congress authorized through
72 fiscal year 2015, the President's fiscal year 2016 budget request

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

73 now calls for another \$7.4 million to finish building the system.

74 Yet, because the law assumed EPA would have the system
75 working by now, the law's authorization has expired and its user
76 fees are unavailable until the electronic manifest system is
77 working. We all know there isn't spare federal money lying around
78 and it is an easy disqualifier for further funding if there is
79 not a current authorization.

80 If this system is going to survive, it is up to the Agency
81 to help us get to the bottom of what is going on here
82 and, if merited, make the case to others that e-Manifest's launch
83 needs further authorization and more funding. I know EPA hasn't
84 been sitting on its hands the last three years, but we need a full
85 accounting of what it has been doing and what still needs to be
86 done. Ultimately, we need to know why it is taking so long, why
87 it is costing so much, and when, if EPA does get its requested
88 funding, will this system actually be usable.

89 I welcome our witness from the Environmental Protection
90 Agency, Barnes Johnson. I appreciate your coming up here to share
91 your experience and insight on the Agency's efforts. We are glad
92 that you are here and hope you will see us as a partner in trying
93 to make the system run well.

94 I will now see if any other member on our side wants any time.
95 Seeing none, I now yield back my time and yield to the Ranking
96 Member, Mr. Tonko, for five minutes.

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

97 Mr. Tonko. Thank you, Mr. Chairman. Good morning. Thank
98 you and welcome, Mr. Johnson, for testifying before the committee
99 this morning. I believe we all agree that an electronic system
100 for tracking hazardous materials will promote greater safety and
101 more accurate record keeping and certainly lower costs.

102 The Agency appears to be moving forward steadily to meet the
103 requirements of the 2012 legislation and to get the system up and
104 running. And I look forward to hearing more about the status of
105 this program. And again, thank you, for your testimony, Director
106 Johnson.

107 Since I still have a few minutes I believe I have to express
108 my disappointment that the subcommittee is holding a hearing on
109 this topic. There are many more pressing issues that require our
110 attention, like drinking water infrastructure, brownfields,
111 environmental justice, emergency environmental response,
112 chemical security, electronic waste, just to name a few topics.

113 We have spoken often enough for you to know that drinking
114 water infrastructure is at the top of my list.

115 There are serious threats to drinking water, systems in towns and
116 cities across our great country. With the exception of the
117 problem in Toledo, Ohio, we have never held hearings on the
118 problems related to source water quality, contamination, drought,
119 or emergency response procedures. Instead, we are spending and
120 investing our time here examining the e-Manifest program, a

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

121 program that I believe is underway, has received adequate funding
122 to make progress and that it is moving forward at a steady pace.
123 I wish other programs were doing as well.

124 I realize this committee had a concern about whether the
125 appropriators would continue to fund the e-Manifest program
126 adequately in the next fiscal year. But at this point, it is clear
127 that we are not going to pass a free standing Interior
128 Appropriations Bill. That is a benefit, in my view, because the
129 bill has too many cuts to vital programs and too many bad policy
130 riders. That bill offered funding far too low to meet real
131 domestic needs. Lack of adequate funding is an issue for all
132 programs, not just e-Manifest.

133 The proposed Interior Appropriations Bill cut more than \$700
134 million, as compared to this year's funding for EPA. Much of that
135 comes from the state and tribal assistance grants, money that goes
136 to the states and to local governments to ensure that we have clean
137 air and have clean water. The Appropriations Committee proposed
138 a cut to the Drinking Water Revolving Loan Fund of some \$150
139 million. That is compared to this year's funding. It is \$429
140 million lower than the President's request. This cut stands in
141 stark contrast to current infrastructure assessments and to what
142 we have heard from witnesses about the needs of water utilities
143 at the two hearings we did hold on drinking water technical
144 assistance programs.

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

145 We should be exploring solutions that will help public water
146 systems that are struggling with the tremendous backlog of work.
147 Continuing to provide clean, safe, affordable drinking water to
148 everyone in our nation is essential, essential for public health
149 for a given purpose and for economic prosperity. There is very
150 little time left in this first session. There are challenges
151 common to all of our districts. e-Manifest does not come close
152 to being on that topic of lists. I hope the subcommittee will
153 take up some of our other big issues, our bigger issues that are
154 of concern to all of our constituents. Working together
155 productively, we can deliver progress on many issues and create
156 jobs in the process. Members on our side of the aisle are anxious
157 to do that.

158 And with that, I again thank you, Director Johnson, for
159 appearing before the subcommittee today. Thank you for your work
160 to get the e-Manifest program moving forward and I look forward
161 to your comments.

162 Mr. Shimkus. The gentleman yields back his time. Just for
163 my colleague, you know that e-Manifest is my legislative baby,
164 don't you? Right?

165 So I would like to turn now to the vice chairman of the
166 committee, Mr. Harper, for five minutes for an opening statement.
167 Do you have any? Okay.

168 Anybody else on the Republican side? Anyone on the Democrat

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

169 side? No.

170 Seeing none, we would like to welcome Mr. Johnson from the
171 EPA here. Your full testimony is entered in the record. You have
172 five minutes, and obviously, we are not going to be stringent on
173 the time, just we look forward to hearing you and as we talk about
174 this discussion on the e-Manifest, welcome, and you are recognized
175 for five minutes.

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

176 STATEMENT OF BARNES JOHNSON, DIRECTOR, OFFICE OF RESOURCE
177 CONSERVATION AND RECOVERY, OFFICE OF SOLID WASTE AND EMERGENCY
178 RESPONSE, U.S. ENVIRONMENTAL PROTECTION AGENCY

179

180 Mr. Johnson. Good morning, Mr. Chairman and members of the
181 subcommittee. I am Barnes Johnson, Director of the Office of
182 Resource Conservation and Recovery in the Office of Solid Waste
183 and Emergency Response. I am pleased to be here today to discuss
184 our efforts to develop an e-Manifest system. I want to thank you,
185 Chairman Shimkus, and members of the House Energy and Commerce
186 Committee, for their successful bipartisan efforts to help enact
187 e-Manifest legislation.

188 Subtitle C of the Resource Conservation Recovery Act
189 requires that EPA establish a manifest system to ensure that when
190 hazardous waste leaves its point of generation, it arrives safely
191 at a designated, permitted hazardous waste management facility.
192 The manual processing steps associated with the current paper
193 based manifest system add up to a significant paperwork burden.

194 As you know, the Hazardous Waste Electronic Manifest
195 Establishment Act was signed into law more than three years ago
196 on October 5, 2012. The Act directs the EPA to establish and
197 implement an electronic manifest system. There are significant
198 benefits to an e-Manifest system, both in cost savings and program
199 efficiencies. EPA's projected e-Manifest system that handles 75

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

200 percent of the current manifest traffic could result in an annual
201 net savings that exceeded \$75 million.

202 A number of other significant benefits are also expected.
203 An e-Manifest will produce better quality data and more timely
204 information on waste shipments, make it possible to have improved
205 tracking capabilities for waste shipments, and users will be able
206 to rely on the national electronic system for manifest data
207 reporting.

208 The Agency has been moving forward on key actions to
209 implement the Act. The EPA has developed system architecture
210 plans that focus on major assets of the e-Manifest system. The
211 EPA worked extensively with commercial users on identifying and
212 addressing their issues. The EPA has also met regularly with our
213 state partner organizations. To realize significant benefits of
214 an e-Manifest system, a broad range of private and public sector
215 stakeholders must use it. And to help ensure that use, a system
216 must meet stakeholder needs.

217 To accomplish this, the Agency is relying heavily on
218 available off-the-shelf software modules conducting
219 user-centered design development and is using agile software
220 development methodologies. This approach embodies continuous
221 improvement through iterative development of operating software
222 and testing and continued, regular engagement with users and
223 stakeholders throughout the process to provide on-going

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

224 opportunities for input.

225 In September 2015, the EPA, in partnership with GSA,
226 completed an initial system demonstration. This focused on a key
227 aspect of the system, the transaction at the end of the chain of
228 custody when hazardous waste arrives at the designated waste
229 management facility and that facility signs the electronic
230 manifest to verify that all hazardous waste types and quantities
231 were received.

232 Getting the system to properly, electronically execute this
233 all important manifest transaction was an important first step
234 for us. The EPA worked with several industry users to complete
235 this initial system functionality.

236 The Agency will add more functionality in an incremental
237 manner via modular contracting strategy. Research has shown that
238 using this type of lean start-up methodology with agile techniques
239 lowers the cost of current and future system development by
240 addressing uncertainties sooner rather than later. By spring of
241 2018, EPA expects to have fully deployed a working e-Manifest
242 system and to be collecting user fees to pay operation and
243 maintenance costs.

244 Besides system development, the Agency has also made
245 progress developing regulations to support the new program. The
246 EPA published a final regulation in February of 2014 authorized
247 electronic manifests and we are working towards a proposed user

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

248 fee regulation that is quite far along.

249 In addition, the e-Manifest Advisory Board was established
250 in August when EPA submitted a charter to Congress. The EPA
251 appreciates the support of Congress in enacting legislation to
252 authorize development in an electronic waste management system
253 and looks forward to continued support to allow for further
254 development, completion of a hazardous waste e-Manifest system.
255 We are committed to keeping Congress informed of our progress.

256 Mr. Chairman, that concludes my prepared statement. I will
257 be happy to answer any questions that you or the subcommittee
258 members may have about EPA's development of an e-Manifest system.

259 [The prepared statement of Mr. Johnson follows:]

260

261 ***** INSERT 1 *****

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

262 Mr. Shimkus. Thank you very much. I am going to recognize
263 myself for five minutes for the first starting of the questions.
264 Before I do that, let me ask unanimous consent that members of
265 the subcommittee have five legislative days to submit opening
266 statements for the record. Without objection, so ordered.

267 To date, \$7.4 million has been appropriated for
268 implementation and set up of e-Manifest. This number is \$1.4
269 million more than the legislation authorized and the President
270 requested in his budget.

271 Can you tell us how much the Agency expended on the e-Manifest
272 IT system and development so far from the fiscal year 2014 and
273 the fiscal year 2015?

274 Mr. Johnson. Yes, sir. So we have spent \$2.5 million of
275 the \$7.4 on system development activities. We have spent another
276 \$1.4 on other non-system related e-Manifest activities like
277 regulatory development, establishment of a FACA and so on. And
278 we have \$3.5 million that remains unspent.

279 Mr. Shimkus. Thank you. EPA's personnel expenditures,
280 professional IT staff dedicated to the system work, were these
281 new hires or people who only worked on e-Manifest?

282 Mr. Johnson. Okay, so we have eight FTEs that work
283 exclusively on e-Manifest and they are a combination of new hires
284 and people that have worked at EPA for some time.

285 Mr. Shimkus. Are they paid out of the Environmental Program

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

286 Management Funds?

287 Mr. Johnson. No. They are paid out of the \$7.4 million that
288 has been appropriated for salaries.

289 Mr. Shimkus. What about contract expenditures for that same
290 period?

291 Mr. Johnson. Okay, so the contract expenditures that we
292 have had for the same period that have come from the \$7.4 have
293 been exclusively used for e-Manifest.

294 Mr. Shimkus. How much has been spent on additional
295 expenditures associated with implementing the overall e-Manifest
296 Act such as personnel and contract expenses related to regulatory
297 development -- you kind of mentioned that earlier -- e-Manifest
298 Advisory Board, and other related activities?

299 Mr. Johnson. So we have spent in total, both personnel costs
300 and other related costs with contractors on those two categories
301 of \$1.4 million.

302 Mr. Shimkus. And these funds all came out of the \$7.4?

303 Mr. Johnson. They all came out of the appropriated dollars
304 for e-Manifest specifically.

305 Mr. Shimkus. Okay, great. As I understand it, EPA has \$4.9
306 -- well, that is a different number. You are saying \$3.5 million
307 left in your response?

308 Mr. Johnson. Yes, sir. At the beginning of the fiscal
309 year, yes, sir.

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

310 Mr. Shimkus. Right. How much of that -- so that means, I
311 am trying to get my math right here. How much of that \$3.5 million
312 was spent on personnel and contract expenses related to regulatory
313 development?

314 Mr. Johnson. Okay, I will go through the numbers again. So
315 we have been appropriated \$7.4.

316 Mr. Shimkus. Right.

317 Mr. Johnson. So \$2.5 million of that has been spent on
318 system development and that includes both personnel and contract
319 costs. \$1.4 have been spent on non-system program-related
320 expenditures, leaving \$3.5.

321 Mr. Shimkus. Great.

322 Mr. Johnson. So a total of \$3.9 have been spent to date and
323 a portion of those expenditures are for personnel and a portion
324 of them are for contract costs.

325 Mr. Shimkus. Very good. How much of the appropriated funds
326 are currently -- well, I got that answer, currently unspent and
327 what are EPA's plans for them?

328 Mr. Johnson. Okay, so there is currently \$3.5 that was
329 unspent at the beginning of the fiscal year and we have a lot of
330 work ahead of us to do, so that \$3.5 is going to be used for a
331 variety of system development activities. Our next, as I sort
332 of have outlined in my written testimony, what we are really
333 focused on right now is developing what in the IT world they call

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

334 a minimum viable product in March. So our initial expenditures
335 out of that \$3.5 are going to be focused on delivering that minimum
336 viable operating system by next spring.

337 Mr. Shimkus. Thank you very much. Mr. Pallone, do you want
338 to do an opening statement?

339 Mr. Pallone. Sure.

340 Mr. Shimkus. The chair recognizes Mr. Pallone for five
341 minutes.

342 Mr. Pallone. Thank you. I know we tried to start 15 minutes
343 later, but it doesn't always work out, so thank you, Mr. Chairman.

344 Mr. Chairman, unfortunately, this hearing is one more in a
345 long line of hearings that focus on small issues while large and
346 pressing issues remain unexamined and unaddressed. Our failing
347 drinking water infrastructure, the backlog of Superfund sites in
348 need of clean up, and the backlog of brownfield sites in need of
349 redevelopment are just a handful of items this subcommittee should
350 be focusing on. These issues are important to the American
351 people, to public health, to the environment, and to the economy.

352 But the Republican majority on this committee is simply
353 looking at the periphery.

354 Last week's hearing focused on the small pot of technical
355 assistance funding for drinking water systems, but not the big
356 pot of infrastructure funding. Today's hearing focuses on a
357 small pot of money to establish a headquarters manifest system,

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

358 but not the funding needed to clean up sites contaminated with
359 hazardous waste.

360 In tomorrow's hearing, we will look at low level nuclear
361 waste, but not in service of real solutions for the large stores
362 of nuclear waste putting communities at risk. And that is just
363 in this subcommittee. If we look beyond, we see repetitive
364 hearings to attack Planned Parenthood and women's health and other
365 rehashing discredited legal arguments against the Clean Power
366 Plan.

367 This great committee should be holding hearings on climate
368 change, on drinking water, on brownfields and more. And I
369 understand that we are having this hearing because the
370 appropriators did not include funding for e-Manifest in this
371 year's Interior Environment Bill. But if members were to examine
372 that bill, you will see that the appropriators have cut funding
373 for all sorts of important programs with bigger price tags and
374 bigger impacts than e-Manifest. Funding for brownfields grants
375 was \$35 million below the President's request. Funding for
376 Superfund cleanup was \$65 million below the President's request.
377 Funding for the Drinking Water State Revolving Fund was \$429
378 million below the President's request. And those funding levels,
379 I think, are unacceptable. And these are issues we should be
380 addressing in our hearing today.

381 Instead, we are here today about what EPA would do with \$7

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

382 million to establish an e-Manifest system. I suppose I should
383 say a few words about the e-Manifest system since it is the subject
384 of the hearing. Adopting an electronic system is a good idea and
385 it should be funded. Users will see significant reductions in
386 costs and the time it takes to comply with regulatory
387 requirements. States will get better info more quickly and will
388 avoid costs of data entry and first responders will get better
389 access to information about hazardous shipments and so will the
390 public. And the long-term benefits will far exceed the up-front
391 costs.

392 The appropriators, in my opinion, are being penny wise and
393 pound foolish in cutting funding for this program just as they
394 are in failing to invest sufficient funds to address our backlog
395 of contaminated sites and infrastructure it appears. So I hope
396 this subcommittee can focus on these pressing issues in the coming
397 months and I yield back. Thank you.

398 Mr. Shimkus. The gentleman yields back his time. The chair
399 now recognizes the ranking member of the subcommittee, Mr. Tonko,
400 for five minutes for his questions.

401 Mr. Tonko. Thank you, Mr. Chair. And I appreciate the
402 opportunity to highlight how EPA's lack of funding is affecting
403 EPA's ability to do important work on behalf of our nation's
404 wellbeing.

405 Now Director Johnson, the President's budget request for

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

406 fiscal year 2016 included, as you made mention, the \$7.4 million
407 for e-Manifest programming, is that right?

408 Mr. Johnson. The \$7.4 that we had discussed previously was
409 the sum of the appropriations received in fiscal years 2014 and
410 2015. The \$7.4 is the President's request for 2016.

411 Mr. Tonko. Okay. And you had talked about some of the
412 priorities with resources you have now. What would additional
413 priorities be on your list if these available funds are directed
414 to the e-Manifest program?

415 Mr. Johnson. Yes, so one of the things that the President's
416 budget request in the last two fiscal years has done is to try
417 to put forward a figure that would really take funding
418 uncertainties out of the question. I can't underscore enough for
419 the committee how difficult it is to manage in the face of extreme
420 funding uncertainties for a large system that EPA estimates is
421 probably going to cost in the neighborhood of \$16 to build. And
422 so the President's budget has tried to take that out of the
423 equation.

424 We have a number of things that we have to do to build a
425 system. The first thing that we are going to be doing is working
426 towards developing what we refer to as the minimum viable product
427 in early next year and part of that will involve working with user
428 authentication. We will be developing security infrastructure
429 around the software. We will be implementing quality assurance

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

430 and quality control procedures for the data that are coming in.
431 We are going to be focusing on the transaction that occurs at the
432 designated facility at the TSD. This is the location that
433 involves the least number of people, but the most number of users,
434 so we think it is a very critical part of the system functionality.

435 We are going to be basically developing that portion of the
436 system between now and next spring. When we do that, that will
437 be a core set of capability that we can then add additional modules
438 to. So after we get past next spring, then we will be going into
439 other areas like, for example, other modes of transportation. We
440 will initially focus on truck traffic. We will be moving into
441 the rail arena. We will be adding bandwidth to the system, its
442 ability to -- you have to remember we may be receiving up to 25,000
443 manifests a day as potential receipts. So we have to have the
444 bandwidth, the physical infrastructure. There is a number of
445 additional build-out capabilities that we will need to do as we
446 go beyond that core system into the larger system.

447 Mr. Tonko. Thank you. And that functionality of which you
448 speak is directly related to the House response. And
449 unfortunately, the House Republican appropriators recommended
450 that e-Manifest programming receive no funding in fiscal year 2016
451 and even worse, e-Manifest is only one of many programs that will
452 seriously be unfunded if the House Republican majority gets its
453 way.

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

454 So for example, funding for drinking water infrastructure
455 which is a pressing need for communities across our country will
456 fall drastically short of what the President has requested. And
457 as I said in my opening statement, this year's proposal or the
458 proposed cut funding for the drinking water SRF by \$150 million
459 below this year's funding is a concern, and by \$429 million below
460 the President's 2016 budget request. With a backlog and
461 infrastructure needs estimated at \$387 billion, this proposal
462 falls far short of what we should be investing.

463 So Director Johnson, I know that drinking water
464 infrastructure is not managed by your office, so I want to ask
465 you how these dramatic cuts would affect EPA's ability to ensure
466 safe drinking water? But I do think we all know that these funding
467 levels will mean more deferred maintenance, more water main
468 breaks, more boiled water advisories, and generally more
469 disruption for communities across the country. What I will
470 ask you is whether, in general, you think the EPA's mission is
471 important and what your support is giving the Agency towards the
472 resources necessary to protect human health and the environment?

473 Mr. Johnson. Yes, I mean absolutely.

474 Mr. Tonko. Your agenda obviously speaks to that mission and
475 what I am hearing here is that you will be falling short of the
476 appropriations required to do your work.

477 Mr. Johnson. I am not from the Drinking Water Program, so

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

478 I can't specifically --

479 Mr. Tonko. Right.

480 Mr. Johnson. I am not familiar with the particulars of that.

481 I am from the Waste Program. I mean I obviously come here with

482 a great deal of passion in support of EPA's mission to protect

483 human health and the environment. I think that is something we

484 all at EPA are trying to do.

485 Mr. Tonko. I thank you. With that, Mr. Chairman, I yield

486 back.

487 Mr. Shimkus. The gentleman's time has expired. The chair

488 now recognizes the vice chair of the subcommittee, Mr. Harper from

489 Mississippi, for five minutes.

490 Mr. Harper. Thank you, Mr. Chairman. Mr. Johnson, thank

491 you for being here and to lend your expertise. I think it would

492 be safe to say that you believe this issue is very important that

493 you are here testifying on, wouldn't you?

494 Mr. Johnson. Yes.

495 Mr. Harper. And I don't think you would say this is a small

496 issue as others have referred to. It is certainly very important

497 to you in what you have to do.

498 Mr. Johnson. It is important. It is important to me. I

499 have to deliver the product here.

500 Mr. Harper. Right. Monitoring current paperwork that you

501 have on the manifests, how many items are done each day? When

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

502 you have a transport done, how many are you having to monitor and
503 track right now, just doing your regular paperwork?

504 Mr. Johnson. Okay, so the manifest system, the way it
505 operates now, there are somewhere on the order of three to five
506 million manifests that are managed in the country every year.

507 Mr. Harper. And when you are doing that, you are having to
508 also notify local law enforcement, perhaps, or the state
509 authorities when there is something of particular significance,
510 correct?

511 Mr. Johnson. So as part of the manifest system, there is
512 formal notification of the states that occurs as part of the
513 processing of the manifest.

514 Mr. Harper. And when we move into this e-Manifest system,
515 is that going to be a real time transaction? Is that the purpose
516 of that so that when it is done who will have access to that?

517 Mr. Johnson. So the way our thinking is at the moment is
518 that it is going to be very similar to when you have a package
519 at the postal -- you send a package through the postal service.
520 You go on the web and you can see the last transaction point. We
521 are expecting to have a very similar kind of availability of
522 information to the individuals who have shipped the waste, to the
523 individuals that are handling the waste in transit, to the
524 individuals that are receiving the waste on the end, as well as
525 the states that are at the origin of the waste, where it is

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

526 transported through and the end point. All of those individuals
527 should have access to the transaction as it occurs if it is handled
528 through the e-Manifest system.

529 Mr. Harper. And if you are looking, obviously, it is an
530 electronic system. Therefore, it is subject to cyber attack and
531 you have to have that security system built into that. Are you
532 satisfied with the progress that is being made on that at this
533 point today?

534 Mr. Johnson. I am satisfied. We are going to be using the
535 standard cyber security protocols and building to those criteria.
536 We have hired a security expert to join our team recently, so it
537 is an area that I think many who work with IT systems are keenly
538 aware of and something that we, too, are focused on.

539 Mr. Harper. The heart of this, obviously, is public safety.
540 It is how we protect the public through the transport of hazardous
541 materials and solid waste.

542 Mr. Johnson. Right.

543 Mr. Harper. And so at this point, do you believe that the
544 development of the system is on track? Are you satisfied with
545 where it is today?

546 Mr. Johnson. I am satisfied with where it is today.

547 Mr. Harper. And there, of course, \$3.5 million remains of
548 that money. How much do you believe will be used of that \$3.5
549 to continue with that system development? I know you have

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

550 multiple needs for that money at this point that is unused. And
551 you said the total cost that you think to get this system up and
552 running was how much?

553 Mr. Johnson. Sixteen million is our present estimate at the
554 moment.

555 Mr. Harper. And that is over what period of time?

556 Mr. Johnson. That is between now and April of '18, spring
557 of '18 when we intend to deliver the system. And that will be
558 the point in time when we can start collecting fees and recover
559 all of the dollars that have been appropriated.

560 Mr. Harper. Has every appointment been made of the advisory
561 board?

562 Mr. Johnson. We have established the advisory board and I
563 would say within the next month to month and a half, we will be
564 notifying the individuals that we have selected for the board.

565 Mr. Harper. And three of those come from the states?

566 Mr. Johnson. Three of them come from the states.

567 Mr. Harper. Who makes that selection? Are you making that
568 selection?

569 Mr. Johnson. We have a panel. We have a set of criteria
570 based on the particular criteria that are in the statute and we
571 have a team that make a recommendation for the selection.

572 Mr. Harper. Is the panel all within the EPA or private
573 industry or all within the government?

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

574 Mr. Johnson. The selecting panel is all within EPA.
575 However, members of the board themselves, of course, per the Act,
576 come from the IT industry, come from the waste handling industry,
577 and come from the states.

578 Mr. Harper. The three states, will they be selected as the
579 criteria, each from a different region or do they come from a
580 particular background? Will any of them be industry related or
581 will they all be -- where will they come from?

582 Mr. Johnson. They have self nominated and put forward their
583 background and their experience. And so we will look at what they
584 have put forward in their application and use that to make a
585 decision about how to -- which ones to select. And certainly
586 geographic distribution is certainly one of the criteria.

587 Mr. Harper. Thank you. I am over time my time. I yield
588 back.

589 Mr. Shimkus. The gentleman yields back his time. The chair
590 now recognizes the ranking member of the full committee, Mr.
591 Pallone for five minutes.

592 Mr. Pallone. Thank you, Mr. Chairman. As I mentioned
593 during my opening statement, I support the e-Manifest program.
594 I think it should be funded. Perhaps better tracking of hazardous
595 waste will mean less contamination of our land. But towns and
596 states across the country are already dealing with a large backlog
597 of sites contaminated with hazardous waste and other pollutants.

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

598 And I don't understand why we are holding a hearing about \$7
599 million for the e-Manifest program and ignoring the tens of
600 millions of dollars needed to clean up contamination.

601 The brownfields program which has historically received
602 bipartisan support promotes job growth, protects the environment
603 and safeguards the health of our communities. However, the
604 funding for brownfields continues to decrease. In fiscal year
605 2015, EPA received \$80 million for the brownfields program, \$5
606 million lower than the requested funding level. For fiscal year
607 2016, the President's budget recommends an additional \$30 million
608 for a total of \$110 million. However, the appropriators have
609 recommended only \$75 million for the brownfields program, even
610 lower than the funding level enacted in fiscal year 2015.

611 So Mr. Johnson, am I correct that these funding levels fall
612 far short of what was included in the President's budget?

613 Mr. Johnson. Mr. Pallone, I am of course, director of the
614 EPA's Waste Programs. I am not with the brownfields and the
615 Superfund program, but my understanding of the information that
616 you just expressed is consistent with my understanding. I know
617 the President's fiscal year 2016 budget proposal came in with
618 increases for both Superfund and brownfields so that those
619 programs could deliver the great work that they do in terms of
620 job creation, economic redevelopment, and protecting our
621 communities. And having worked in the Superfund program myself

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

622 for more than seven years as deputy director of the Remedial
623 Program at EPA, I sort of understand that first hand.

624 And I also know firsthand that those programs are
625 exceptionally scalable and have shown in the past that when
626 additional funds are appropriated, they deliver great benefit to
627 the communities that they serve.

628 Mr. Pallone. Thank you, Mr. Johnson. Let me ask about
629 e-Manifest. If EPA does not receiving funding for this work in
630 fiscal year 2016, will development and implementation of the
631 system be delayed?

632 Mr. Johnson. So if we don't receive money in fiscal year
633 2016, it will certainly jeopardize the velocity with which we can
634 go forward.

635 Mr. Pallone. Okay.

636 Mr. Johnson. And we are constantly juggling the speed at
637 which we are able to do system development based on what we think
638 is the availability of funds.

639 Mr. Pallone. Well, more generally, when Congress fails to
640 fund EPA programs like e-Manifest or brownfields, can we expect
641 implementation to happen on schedule? Or even to happen at all?

642 Mr. Johnson. Well, we certainly can't keep our schedules
643 up if we don't have the funding that is needed.

644 Mr. Pallone. All right. Thanks. I mean it just seems to
645 me that Republicans in the House want to cut funding every year

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

646 and then they complain that the EPA is falling behind. If we value
647 toxic waste clean ups, drinking water infrastructure, and other
648 EPA initiatives that protect human health, the environment, and
649 the economy, we should ensure sufficient funding. And I think
650 these are issues that matter to the American people. I know they
651 matter to my constituents. And they should matter to the
652 majority. So I hope we can focus more on these issues moving
653 forward, Mr. Chairman. And I yield the balance of my time.

654 Mr. Shimkus. Will the gentleman yield for one second?

655 Mr. Pallone. Yes.

656 Mr. Shimkus. So I think that is part of kind of the debate
657 we are actually having this morning and the conference we are going
658 to have on the floor, I think tomorrow in the Bipartisan Budget
659 Act agreement with the administration. The revised nonsecurity
660 will go from \$493 billion to \$518 billion. That is fiscal year
661 2016. In fiscal year 2017, the revised nonsecurity dollars will
662 go from \$531 billion. There is going to be more money for the
663 revised nonsecurity if this budget agreement -- it is two years
664 which would mean there would be some certainty. So we will see
665 what happens on the floor.

666 Mr. Pallone. We hope we get a big vote from the Republican
667 side.

668 Mr. Shimkus. I wouldn't bet a big one. Thank you. I yield
669 to my colleague, Mr. Murphy from Pennsylvania, for five minutes.

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

670 Mr. Murphy. Thank you, Mr. Chairman. Thank you for being
671 here. This is a fascinating process to me. You know, in Western
672 Pennsylvania, we have a great deal that also results from mining,
673 from fracking, nuclear areas. These are all issues, medical
674 wastes, etcetera. They need to be tracked. Just a couple of
675 questions I have on this. I am trying to understand this whole
676 system. Can you walk me through how this all works, the computer
677 systems, the architecture of this?

678 If I understand from your testimony, you talked about how
679 basically the manifest follows the trucks, correct? And even
680 from that it depends on someone to give the driver an accurate
681 record of exactly what is in there, am I correct? And that is
682 all kept on computer files? And then that is turned over at the
683 site of the waste site.

684 How do we make sure that what is in that manifest is what
685 is in the truck? Something real basic like that.

686 Mr. Johnson. So I will try to explain the way the system
687 works today and the paper manifest and then talk about how we hope
688 that it will, and we expect that it will, operate in an e-Manifest
689 system.

690 So today, there is a six-copy form that is used to create
691 and document the chain of custody that occurs from the point of
692 generation where the waste is first created, hand it off to the
693 transporter. The transporter then sends the material to the

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

694 designated facility where it will be stored, treated, or disposed.

695 And then that form is sent back to the generator so that the TSD

696 at the end, the designated facility at the end, confirms that what

697 the generator thought they sent to them actually made it.

698 Mr. Murphy. And this is what you are saying can be up to

699 700,000 hours of paperwork?

700 Mr. Johnson. Pardon me?

701 Mr. Murphy. This is where you say that could be up to 700,000

702 hours of paperwork? It is pretty burdensome.

703 Mr. Johnson. Yes, yes, absolutely. And there is a copy of

704 copies go to the state where the generator is, the state where

705 the receiving facility. So that is how all the paperwork

706 manifests works today.

707 The electronic manifest, this transaction will occur

708 electronically. And so it will occur on mobile devices perhaps.

709 And there will be again a chain of custody that occurs. EPA has

710 a system called the -- we refer to as the chrome air rule, but

711 it basically is a system of user authentication that ensures that

712 the person who signs the electronic device is actually the person

713 of record. So we will follow the exact same process that occurs

714 --

715 Mr. Murphy. Now all those things in place, so that this was

716 supposed to have been up and running a couple of weeks ago. Are

717 all the elements in place or is there a specific list of items

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

718 you have that still have to be done? And let me add to that because
719 we have had an Energy and Commerce Committee, a number of hearings
720 on other electronic systems that are supposed to be up and running.
721 And they weren't because the bugs were not tested before it was
722 fully implemented. So I need to know if you can give me a list
723 of some specific items yet to be ready. And then is EPA going
724 to test this and do a test run of this, too?

725 Mr. Johnson. Yes. All great questions. So the system is
726 not up and running. We do have a key portion of the system that
727 is up and running that we developed and got going that relates
728 to that final transaction where the TSD confirms that what they
729 received actually is that. So we have that piece. But we have
730 to do the build out for the rest of the system. And so there is
731 a number of pieces there that we have to work on, the transaction
732 at the generator, the transporter. We have to have a system for
733 paper processing. We haven't talked about that, but the
734 e-Manifest Act allows people to continue to do paper processing.
735 We have to have interfaces so the states can access and acquire
736 this data. We have been working very closely with the user
737 community. We have been, shall I say, joined at the hip with a
738 variety of waste management companies to learn the kinds of
739 systems they already use so that we can have software components
740 that speak directly with their existing software systems. So we
741 have those pieces to build out. But we have been actually in very

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

742 close and regular communication with the hazardous waste
743 management industry on the structure and the functionality of this
744 system, learned a great deal from them.

745 Mr. Murphy. So in the final seconds I have left, I just want
746 to make sure this is something -- so you have done some work on
747 this, but any more test runs are going to be needed?

748 Mr. Johnson. Absolutely. The whole notion of what we are
749 going to be doing is developing small pieces, testing those,
750 develop small pieces, testing them, getting them out to the user.
751 One of the reasons why IT systems have failed in the past is that
752 they are sort of really done apart from the user community. And
753 we are actually committed to every step of the way working right
754 alongside with our user community, having them test software in
755 real time. In fact, the software that we developed in September
756 is available to the public. We have given it to a number of members
757 of the waste management community. They have given us immediate
758 feedback on things we got wrong, things we need to improve. So
759 we are staying very closely tied in with the user community.

760 Mr. Murphy. It is a great idea to develop that with the user
761 community. I hope other agencies use that. Thank you. I yield
762 back.

763 Mr. Shimkus. The gentleman yields back. The chair now
764 recognizes the gentleman from Texas, Mr. Green, for five minutes.

765 Mr. Green. I want to thank the chairman and the ranking

766 member for holding the hearing today. Like a lot of members, I
767 am disappointed that since it is not up and running, Chairman
768 Shimkus and I sponsored the e-Manifest system when the
769 subcommittee held hearings and supported passage of the Hazardous
770 Waste Electronic Manifest Establishment Act. The e-Manifest Act
771 was passed with strong bipartisan support, support from the
772 industry, environmental community because its benefits are so
773 obvious, reducing paperwork, lowering the administrative burden
774 on regulators and industry, saving tens of millions of dollars
775 annually and improving the tracking and management of our nation's
776 hazardous waste.

777 It has been over three years since e-Manifest was signed into
778 law. I am pleased to get an update on the status and see what
779 Congress and EPA can do to ensure that promised benefits of
780 e-Manifest are delivered as soon as reasonably possible. Maybe
781 our subcommittee should have had some hearings earlier so we could
782 get an update and see what the problem was.

783 Mr. Johnson, e-Manifest system protected to save over \$75
784 million and thousands of hours per year once implemented.
785 However, you mentioned some of the noneconomic benefits in this
786 system. Can you elaborate on these noneconomic benefits?

787 Mr. Johnson. Yes, sir. So we expect a number of them. I
788 think one of the great things will be the immediate accessibility
789 to information. We will have access to e-Manifest information
790 like we simply don't have right now. The e-Manifest data other
791 than in some of the states that takes very special efforts to

792 collect and acquire that information, we really don't have it at
793 our fingertips. I think the quality control will be much
794 improved.

795 You have to realize there is over 270 data elements on up to
796 3 to 5 million of these transactions occurring every year. So
797 being able to do much better quality control, I think will have
798 ripple effects through the hazardous waste management system and
799 bring new accountability to the management of hazardous waste in
800 general.

801 Mr. Green. Can you describe who the primary stakeholders are
802 on this issue and how you would involve them?

803 Mr. Johnson. Absolutely. So our primary stakeholders, of
804 course, are the states. We have worked very closely with a number
805 of states, and particularly those states that have systems right
806 now of acquiring manifest data through the paper system. We have
807 been working very closely with that.

808 Of course, the state association, ASTSWMO and ECOS, we have
809 been working very closely with; on the industry side, the whole
810 transactional environment, so the generator community, the
811 transportation community, as well as the treatment, storage, and
812 disposal facilities. So we have been working with the
813 Environmental Technology Council which is an association that
814 represents many of the larger hazardous waste management
815 facilities. We have been working with particular businesses like
816 Safety Clean and other hazardous waste management facilities,
817 working with them, working with their IT departments.

818 Mr. Green. I represent a district in Houston, we have a
819 number of the customers who would like to have that and you
820 mentioned some of them. How would lack of funding for fiscal year
821 2016 affect your ability to get the system on line by 2017?

822 Mr. Johnson. Well, I think it will have an important adverse
823 effect on us. We are really adjusting the velocity, the speed of
824 our development activities based on the funding that we have
825 available to us. And under the funding uncertainty that we are
826 presently dealing with, we are being cautious in the speed at which
827 we move forward.

828 Mr. Green. Given the benefits of the system often the costs
829 to develop are more than justified. The same is true for much
830 needed water infrastructure repairs, brownfields, Superfund
831 funding. I share the concern voiced by my colleagues on this
832 subcommittee in failing to address the big issues that have an
833 impact on our working families. Congress must invest in our
834 infrastructure before it fails and I hope the subcommittee will
835 focus on infrastructure needs in the coming months.

836 Mr. Chairman, I will yield back my 38 seconds.

837 Mr. Shimkus. The gentleman yields back his time. The chair
838 now recognizes the gentleman from West Virginia, Mr. McKinley, for
839 five minutes.

840 Mr. McKinley. Thank you, Mr. Chairman, and thank you, Mr.
841 Johnson, for appearing here today. It is my understanding --

842 Mr. Shimkus. Would the gentleman yield for a second? Can
843 you pull your mic a little bit closer? The gentleman from Texas

844 cannot hear you and he wants to.

845 Mr. McKinley. It is my understanding that the total funding
846 for this could be, you are saying, in the \$16 million range?

847

848 Mr. Johnson. We are presently estimating, based on what we
849 know now, that the cost of the system to be \$16 million.

850 Mr. McKinley. Okay, so what is the -- what was your
851 projection of the cost to have outsourced this? What could they
852 have done in the private sector?

853 Mr. Johnson. Absolutely. One of the things that when the
854 e-Manifest Act passed, we had the same sense of urgency that I am
855 feeling from the committee today.

856 Mr. McKinley. What is the answer to the question? What do
857 you think the outsourcing would have cost if you had done it with
858 private sector?

859 Mr. Johnson. We don't know.

860 Mr. McKinley. So somebody decided to do this in-house
861 without having a --

862 Mr. Johnson. No, the first thing that we did, the very first
863 thing that we did was we went out and talked to every individual
864 that had systems like e-Manifest. So the knee jerk reaction, go
865 talk to FedEx, talk to Amazon, talk to IBM, talk to all the big
866 companies out there, the Postal Service, to talk to these folks.
867 We went and talked to all of them.

868 Mr. McKinley. I am concerned about this time. This was
869 passed in '12 and it is three years later and you are saying it

870 may not be finished for two more years. So I think we have got
871 an issue here overall, whether it was good judgment or bad judgment
872 as to try to do it in-house. And I think the GAO came out in its
873 own report has been very concerned about the use of in-house IT
874 work right now with numbers of cancellations.

875 Mr. Johnson. We are not going to be doing in-house, sir.

876 Mr. McKinley. I have only got five minutes.

877 Mr. Johnson. Okay.

878 Mr. McKinley. So Mr. Shimkus asked Ms. Rudzinski back in
879 2012, how long do you think it is going to take to do this? And
880 she said if we use very conventional procedure approach, typically
881 in the 12 to 18 months. That is 12 to 18 months. We are three
882 years later and you are saying it may be another two years to go.
883 So was she wrong?

884 Mr. Johnson. I believe she was responding to the length of
885 time it takes to get a contract in place. We, too, will be using,
886 we are going to be using -- we are not going to be doing this
887 in-house. We are going to be using contractors.

888 Mr. McKinley. -- rules on that as well. Let me go a
889 little further. I think you have got a problem. It could be over
890 funding. It could be maybe incompetency perhaps in taking this
891 out. I don't know who your qualifications are, or people that are
892 writing your specifications for this. Are these people that have
893 failed on others? Are you using tech stacks?

894 Mr. Johnson. Excuse me, sir?

895 Mr. McKinley. Tech stacks?

896 Mr. Johnson. Yes.

897 Mr. McKinley. You are using them.

898 Mr. Johnson. I am not sure --

899 Mr. McKinley. It is an OMB program for software development.

900 Mr. Johnson. It is a certification program?

901 Mr. McKinley. It is reviewing, the status monitoring,
902 scheduling of development of software like this. And I am just
903 curious, you are not familiar with it, so you are apparently not
904 using it. And OMB has been recommending to the IT department that
905 they should be using this and it sounds like you are not using it.

906 The other thing that I think in answer back to Congressman
907 Murphy's comment, I didn't hear you use the term IV&V, independent
908 verification and validation, is a way to check for issues as you
909 go. Are you using IV&V?

910 Mr. Johnson. I will ask the technical team.

911 Mr. McKinley. So if you have opted -- that is pretty
912 incredible -- so if you have opted without having other costs
913 incurred, I am going to do this in-house, even though if again the
914 GAO has said, they have rattled off this list in their report,
915 Department of Defense canceled their contract five years after
916 spending billions of dollars. Homeland Security, they canceled
917 that contract after a billion dollars. Veterans Affairs -- I
918 could go on and on of there is some real questions of whether or
919 not our IT is capable of writing the kinds of specifications to
920 put these things back out in the software. And apparently, they
921 seem to be recommending that we consider using outsourcing and I

922 don't hear, you have already acknowledged you had no idea what the
923 outsourcing cost could be, but you decided to do it in-house.

924 Mr. Johnson. No, we are outsourcing this work.

925 Mr. McKinley. I thought you said you were doing it with eight
926 people on your staff?

927 Mr. Johnson. We, of course, have internal staff who are also
928 outsourcing the work using modular contracting strategies, agile
929 development. That is what we intend to do.

930 Mr. McKinley. I am running out of time here. So in the
931 future, if this has been going on for three years, are we going
932 to be able to get some monitoring of this, to see some mileposts
933 that we are getting something done in a time frame, the costs, how
934 the costs are being incurred with this? Where is the transparency
935 that we were supposed to get?

936 Mr. Johnson. We are prepared to be very transparent.

937 Mr. McKinley. This is the first report we have heard from
938 you in three years.

939 Mr. Johnson. I am happy to report to the committee as they
940 see fit on progress throughout the development.

941 Mr. McKinley. Mr. Chairman, I yield back.

942 Mr. Shimkus. The gentleman yields back his time. The chair
943 now recognizes the gentleman from Texas, Mr. Flores, for five
944 minutes.

945 Mr. Flores. Thank you, Mr. Chairman. Mr. Johnson, if a
946 state has not delegated enforcement of Subtitle C, what is the
947 requirement on the manifest once it has been verified by the

948 disposer?

949 Mr. Johnson. I am sorry, Mr. Flores, could you please repeat
950 the question?

951 Mr. Flores. Yes. If a state has not delegated enforcement
952 of Subtitle C, what is the requirement on the manifest once it is
953 verified by the disposer?

954 Mr. Johnson. So I think I will have to get back to you. I
955 hesitate to respond on the record on a complex state authorization
956 issue. So I will get back to you on that.

957 Mr. Flores. I ask you to provide that answer for the record.
958 And can you give the subcommittee a specific list of items that
959 need to be done in their time line so that we can understand what
960 stands between now and the system being fully operational?

961 Mr. Johnson. Absolutely. So our first task that we are
962 going to be focusing on between now and next spring is developing
963 the core software system that we refer to as the minimum viable
964 product. And this going to focus on the software functionality
965 that occurs around the receiving facility, the designated
966 facility, the TSD. We will develop basic security
967 infrastructure, basic user authentication. We are going to be
968 using our electronic signature protocols in that verification.
969 Have it so that the TSD can receive information and send out
970 information, confirming the receipt of the waste. So that is our
971 first core comprehensive deliverable following what we developed
972 in September.

973 Then following this spring, we will be building out

974 additional pieces of the system. So we have to have a paper
975 tracking system. We have to develop APIs, application
976 programming interfaces, for our states. We have to have user
977 interfaces that we have to develop for the system, data handling
978 systems, that sort of thing.

979 And then we have to, as I said, grow the ability of the system
980 to operate with a much larger bandwidth than we will in the
981 development cycle. So those are examples of some of the things
982 that we have to do down the road.

983 Mr. Flores. And in terms of the rulemaking, what is the
984 status of fee setting for system users?

985 Mr. Johnson. So we are in the final stages of clearing what
986 we refer to as our fee rule. That will be, we expect to be proposed
987 early next year. And in that rule, we are going to lay out the
988 structure of our fee collection system.

989 Mr. Flores. Thank you for your responses. I look forward
990 to the answer to the first question for the record.

991 Mr. Johnson. Yes.

992 Mr. Flores. Mr. Chairman, I yield back the balance of my
993 time.

994 Mr. Shimkus. The gentleman yields back his time. The chair
995 now recognizes the gentleman from North Carolina, Mr. Hudson, for
996 five minutes.

997 Mr. Hudson. Thank you, Mr. Chairman. Thank you for holding
998 this hearing today which allows us to be updated on the
999 implementation on this important program.

1000 Mr. Johnson, thank you for being here and sharing your
1001 testimony. My first question for you is has the EPA determined
1002 how e-Manifest will apply to hazardous waste shipments by rail?

1003 Mr. Johnson. We have been -- we have not fully determined
1004 that. Of course, there is an existing electronic system that is
1005 used to track the movement of hazardous materials under DOT's
1006 program. We have been talking to the rail industry and we are well
1007 aware that we have to develop some linkages with their existing
1008 system.

1009 Mr. Hudson. Well, I appreciate that. There is a tremendous
1010 amount of this waste, to my understanding, that is shipped by rail.
1011 So I think it would be important that we include that.

1012 My next question is how will EPA strive to protect legitimate
1013 confidential business information reported as part of this system
1014 as the e-Manifest system?

1015 Mr. Johnson. Yes, this has been an issue for us and one that
1016 we grappled in our one-year rule. And EPA's thinking is that one
1017 of the, I think, key tools that we are going to be using to handle
1018 confidential business information is that other than the parties
1019 that are directly involved in the transaction, we are going to have
1020 a 90-day delay period before we make the manifest information
1021 publicly available.

1022 EPA has made a determination that we don't believe that
1023 generally manifest information is CBI, but we do know that it has
1024 important commercial value, so we think that by delaying the time
1025 between when the transaction occurs and its publication for the

1026 broader public to see, that that will help ameliorate any concerns
1027 that have been raised in this regard.

1028 Mr. Hudson. I appreciate it. Could you help me understand
1029 more broadly sort of what are the issues that arose that caused
1030 this delay in the time frame? Just help me understand why it has
1031 taken so long?

1032 Mr. Johnson. Yes, absolutely. So when the law was passed
1033 and EPA immediately had a sense of urgency about building the
1034 system, the very first thing that we did is we went out -- it was
1035 really one of two silver bullets that had to come forward if we
1036 were going to meet this three-year deadline. We were either going
1037 to find a vendor out there that had an existing system that we could
1038 basically take and adapt. So we went out and we talked to Amazon,
1039 to the Postal Service, to FedEx, and all of the people that you
1040 think naturally and we all know have software systems that are out
1041 there that do kind of what e-Manifest is intended to do. All of
1042 those companies came back to us and said look, we are in the package
1043 movement business. We are in the retail business. We are not in
1044 the software sales business. This is part of our intellectual
1045 property and we are not selling it to anybody. So that was a dead
1046 end for us.

1047 The other thing that we had hoped was a thought that had been
1048 part of the legislation which is a share and share and saving share
1049 in revenue or other strategies for intellectual property sharing
1050 with people so that we could kind of get going. We pursued that.
1051 The legislation, as it was finally passed, didn't have the full

1052 authority for that, particularly with the appropriations coming
1053 through, having to come through every year. So that was not
1054 something that we could work on.

1055 Once we sort of got to the bottom of those two things through
1056 pretty extensive conversation with the vendor communities out
1057 there, we said we are going to have to do this through -- we are
1058 going to have to hire contractors and use this agile modular
1059 contracting strategy to get this done. So that is really, I think,
1060 one of the biggest reasons why we are where we are today was we
1061 really tried to pursue these silver bullets. They didn't work
1062 out. Now we are on a track using what all the research says is
1063 the most cost effective, efficient way to build IT systems.

1064 Mr. Hudson. All right. One final question. What did you
1065 learn from September's initial demonstration of the system? Did
1066 it meet your expectations? Why or why not?

1067 Mr. Johnson. Absolutely. It certainly met our
1068 expectations. We were really pleased with the outcome. I think
1069 we learned a number of things. One of the things is we learned
1070 how useful our user community is in identifying errors. They were
1071 not shy about telling us when we had mistakes and errors and things
1072 that we needed to correct. We immediately went in and through the
1073 sprints that you go through in the agile development process, we
1074 were able to get the speed back and fix the software in a real time
1075 basis. So that was one of the things that we learned.

1076 We learned that we needed a data model and we need to do a
1077 little bit better explanation of our software and how it operates,

1078 so a little bit more communication when we put these modules out
1079 to get the private sector to react to and use and try to interface
1080 with their systems.

1081 Mr. Hudson. Thank you, Mr. Chairman. My time has expired.
1082 I yield back.

1083 Mr. Shimkus. The gentleman yields back his time. Just a
1084 point or two that wasn't really discussed. One of the big issues,
1085 the reason why we wanted to do this was the storage, all the paper
1086 that is stored in file cabinets and buildings for this
1087 documentation. So there was a desire to get it digitally stored.
1088 I know that is all part of the process.

1089 Seeing no other members wishing to ask any questions I want
1090 to remind Mr. Johnson that the hearing record will remain open for
1091 ten legislative days for anyone else who may wish to submit a
1092 follow-up question. And we want to thank you for coming and we
1093 will call this hearing adjourned.

1094 [Whereupon, at 11:21 a.m., the subcommittee was adjourned.]