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6 FISCAL YEAR 2020 EPA BUDGET

7 TUESDAY, APRIL 9, 2019

8 House of Representatives

9 Subcommittee on Environment and Climate Change

10 Committee on Energy and Commerce

11 Washington, D.C.

12

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14

15 The subcommittee met, pursuant to call, at 10:01 a.m., in
16 Room 2123 Rayburn House Office Building, Hon. Paul Tonko [chairman
17 of the subcommittee] presiding.

18 Members present: Representatives Tonko, Clarke, Peters,
19 Barragan, Blunt Rochester, Soto, DeGette, Matsui, McNerney, Ruiz,
20 Dingell, Pallone (ex officio), Shimkus, Rodgers, McKinley,
21 Johnson, Long, Flores, Carter, Duncan, and Walden (ex officio).

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

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24 Staff present: Jacqueline Cohen, Chief Environment Counsel;
25 Adam Fischer, Policy Analyst; Caitlin Haberman, Professional
26 Staff Member; Rick Kessler, Senior Advisor and Staff Directory,
27 Energy and Environment; Brendan Larkin, Policy Coordinator;
28 Dustin Maghamfar, Air and Climate Counsel; Teresa Williams,
29 Energy Fellow; Mike Bloomquist, Minority Staff Director; Adam
30 Buckalew, Minority Director of Coalitions and Deputy Chief
31 Counsel, Health; Jerry Couri, Minority Deputy Chief Counsel,
32 Environment & Climate Change; Margaret Tucker Fogarty, Minority
33 Staff Assistant; Ryan Long, Minority Deputy Staff Director; Mary
34 Martin, Minority Chief Counsel, Energy & Environment & Climate
35 Change; Brandon Mooney, Minority Deputy Chief Counsel, Energy;
36 James Paluskiewicz, Minority Chief Counsel, Health; and Peter
37 Spencer, Minority Senior Professional Staff Member, Environment
38 & Climate Change.

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39 Mr. Tonko. The Subcommittee on Environment and Climate
40 Change will now come to order. The chair now recognizes himself
41 for 5 minutes. This morning we welcome EPA Administrator Wheeler
42 to the subcommittee to discuss the President's proposed fiscal
43 year 2020 budget for the Agency. Mr. Wheeler, thank you for being
44 here.

45 When your predecessor last testified, we were tough but,
46 in my opinion, fair given his record. While I am relieved that
47 you have not continued his pattern of indiscretions and ethical
48 violations, I do have serious concerns about the course this
49 Agency, the EPA, has plotted under your leadership, and I believe
50 my colleagues on this side of the dais will have questions and
51 disagreements on policies your Agency has been putting forth.

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

57 I am also concerned and confused that the President's
58 proposal includes significant reductions to programs that the
59 administration publicly claims are top priorities. For example,
60 Administrator Wheeler has called unsafe drinking water the
61 greatest environmental threat, but the budget fails to reflect

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62 that sentiment. Bipartisan legislation that originated in this
63 committee last year reauthorized funding for the Drinking Water
64 State Revolving Fund at some \$1.3 billion in fiscal year 2020,
65 but President Trump's request is far less than even last year's
66 level.

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

84 We are spending billions of dollars each year responding

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

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

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

106 We are seeing a lax approach to enforcement of existing laws.
107 Enforcement actions against polluters have reached a 25-year

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108 low under this administration. The Agency has stressed allowing
109 polluters to self-report violations all while conducting fewer
110 inspections to catch them if they are breaking the law. That
111 is not just taking the cop off the beat, it is asking the
112 lawbreakers to come down to the station at their own convenience.

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

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

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131 requests.

132 Mr. Wheeler, again thank you for joining us. I look forward
133 to your testimony. With that I now recognize Mr. Shimkus, our
134 Republican leader for the Subcommittee on Environment and Climate
135 Change, for 5 minutes for his opening statement.

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

141 This also just going off script here, it is good to see behind
142 you Ryan Jackson. For those on the committee who were around
143 during the TSCA legislation, Ryan was our point of contact with
144 Senator Inhofe. I will be asking questions on that, so maybe,
145 Administrator, you want to talk to Ryan, find out what our intent
146 was and what we were trying to do. But Ryan it is great to see
147 you again, so thanks.

148 Mr. Chairman, this Congress is not the first time that I
149 have been the lead Republican on this subcommittee or some version
150 of it. Some of you may know this, but I was also lead Republican
151 on this subcommittee in the 110th Congress. That Congress
152 followed 12 years of Republican control of the House and a new
153 Democrat majority was eager to bring the Republican-run EPA to

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154 criticize their budget proposal because it wasn't as robust as
155 the majority felt as necessary.

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

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

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177 it comes to an agency's success. More money does not necessarily
178 make a person care about their environment. There are other
179 considerations including fidelity to the laws Americans ask us
180 to pass, stewardship of the Agency to ensure it is doing the best
181 it can with what it has, concrete metrics that can demonstrate
182 progress is being made, and responsiveness to the environmental
183 and public health concerns of the American people.

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

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

197 Mr. Tonko. The gentleman yields back. The chair now
198 recognizes Representative Pallone, chairman of the full
199 committee, for 5 minutes for his opening statement.

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200 Chairman Pallone?

201 The Chairman. Thank you, Mr. Chairman.

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

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

219 And I was pleased when Mr. Wheeler, then the Acting
220 Administrator, personally committed to make staff available to
221 the committee for briefings and to testify. Unfortunately, when
222 I look at the past year, it does not seem that EPA has come very

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223 far. In fact, on some issues it seems the Agency has actually
224 moved backward. With Administrator Wheeler at the helm, EPA has
225 continued to attack science, transparency, and public health,
226 and the Agency is working to abandon action on climate change
227 and air quality, in my opinion.

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

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

242 So I am very concerned that EPA's implementation also of
243 the revised Toxic Substances Control Act, or TSCA, is leaving
244 workers, children, low-income communities, communities of color,
245 and the general public at an unacceptable risk. The regulation

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246 of asbestos is still heading in the wrong direction. EPA is still
247 allowing new uses of asbestos under the new chemical program and
248 still ignoring legacy asbestos exposures and its risk assessment.

249 And last month, the EPA finalized a rule on methylene chloride
250 that fell far short of what is needed to protect public health
251 and what was promised to this committee and me. EPA is also still
252 working to remove important protections in the Risk Management
253 planning program that might have prevented or reduced the impacts
254 of two recent fires in the Houston area.

255 So, I also remain concerned that a lot of troubling
256 activities that began on Administrator Pruitt's watch are still
257 happening. EPA is still hiring industry lobbyists as regulators
258 and that raises red flags on ethics issues. It is also still
259 shortening comment periods, hiding science from the American
260 public, and refusing to provide requests to documents to Congress.

261 And members of both parties in both the House and the Senate
262 are unable to get answers from EPA and the administration, and
263 this is unacceptable because Congress must be able to conduct
264 oversight. The Agency's refusal to provide information also
265 creates the distinct impression that the EPA has something to
266 hide.

267 So the track record of the EPA is abysmal, in my opinion.
268 I am hoping, Mr. Wheeler, that we can look forward, well, I look

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269 forward to your testimony and hope that we can begin some changes
270 and answers to this committee's questions today. And with that
271 unless someone wants my time I yield back, Mr. Chairman.

272 Mr. Tonko. Seeing no one, the gentleman yields back.

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

276 Mr. Johnson. Thank you, Mr. Chairman. I appreciate the
277 recognition and I am sure if Chairman Walden were here, he would
278 offer these words himself.

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

286 It is possible to have both a vibrant and growing economy
287 along with sound policies that protect our environment. These
288 goals are not mutually exclusive and I know Administrator Wheeler
289 understands that especially as the Agency works on critical
290 drinking water issues, continued TSCA implementation, and
291 cleaning up and redeveloping contaminated lands while

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292 simultaneously seeking to reduce unnecessary regulatory burdens
293 for our small businesses and job creators.

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

298 Mr. Tonko. The gentleman yields back. The chair would like
299 to remind members that pursuant to committee rules, all members'
300 written opening statements shall be made part of the record.

301 I now have the pleasure of introducing our witness for
302 today's hearing, the Honorable Andrew Wheeler, Administrator of
303 the United States Environmental Protection Agency. Before we
304 begin I would like to explain the lighting system. In front of
305 you, Administrator, are a series of lights. The light will
306 initially be green at the start of your opening statement. The
307 light will turn yellow when you have 1 minute remaining. Please
308 begin to wrap up your testimony at that point. The light will
309 turn red when your time expires. And at this time, the chair
310 will recognize Administrator Wheeler for 5 minutes to provide
311 his opening statement. Welcome, Mr. Wheeler.

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312 STATEMENT OF ANDREW WHEELER, ADMINISTRATOR, U.S. ENVIRONMENTAL
313 PROTECTION AGENCY

314

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

321 The U.S. is a global leader in clean air and access to safe
322 drinking water and we are cleaning up contaminated lands at the
323 fastest pace in over a decade. At the same time, EPA has finalized
324 38 deregulatory actions, saving Americans more than \$3 billion
325 in regulatory costs, and we have an additional 39 actions in
326 development proposed to save billions more. The Trump
327 administration is proving that environmental protection and
328 historic economic growth can go hand in hand. My testimony will
329 highlight how the President's budget will continue this progress.

330 I believe that water issues from drinking water to marine
331 litter to infrastructure are the largest and most immediate
332 environmental issue facing the world today. The budget request
333 provides critical support for water quality protection. One
334 challenge we face is lead exposure. Through the new federal lead

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335 action plan, EPA is coordinating with our federal counterparts
336 to reduce childhood lead exposure. Last week, we issued a status
337 report to hold ourselves accountable to the public and clearly
338 communicate the steps we are taking to implement the action plan.

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

345 Another challenge is addressing potential sources of
346 contamination. In February, EPA released its PFAS Action Plan,
347 the most comprehensive, multimedia research and action plan ever
348 issued by the Agency to address an emerging chemical of concern.

349 On the marine litter issue, billions of pounds of waste enter
350 our oceans each year, harming marine life and coastal economies.

351 EPA's Trash Free Waters program is stepping up to help the
352 international community capture marine litter or prevent it from
353 reaching the ocean.

354 On infrastructure, the President's budget includes a 25
355 percent increase to WIFIA from last year's request. This new
356 program is already producing tremendous results. Today, EPA has
357 issued eight WIFIA loans totaling more than \$2 billion in federal

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358 credit assistance. I was in Miami-Dade County on Friday to
359 announce a \$99 billion WIFIA loan to help protect Florida's
360 beaches and water resources. We recently announced our third
361 round of funding which could support \$12 billion in water
362 infrastructure projects and create more than 180,000 jobs.

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

376 When it comes to reducing air pollution, we are moving
377 forward with common-sense reforms that will help more communities
378 reach attainment of the NAAQS standards. For example, last week
379 we announced that the Cleveland area is now meeting the standards
380 for particulate matter. The cleanup of contaminated lands also

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381 plays a crucial role in revitalizing communities throughout the
382 country. In fiscal year 2018, EPA deleted all or part of 22 sites
383 from the National Priorities List, the largest number of deletions
384 in 1 year since fiscal year 2005.

385 Our next responsibility is ensuring that chemicals used in
386 commerce and sold in the marketplace are safe for public use.

387 I am proud to report that EPA continues to meet the major
388 statutory deadlines of the amended TSCA. Earlier this month,
389 we finalized a ban on retail sales of methylene chloride for
390 consumer paint and coating removal, the first risk management
391 action under Section 10 of amended TSCA.

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

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

403 [The prepared statement of Mr. Wheeler follows:]

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406 Mr. Tonko. Thank you. That concludes the Administrator's
407 opening statement. We will now move to member questions. Each
408 member will have 5 minutes to ask questions of our witness. And
409 I will point out that we are going to stay very strict with the
410 5 minutes because I am told that the Administrator has a hard-out
411 at 12:30, is it? So we will be very strict about the 5-minute
412 effort. Since our witness can only be here to 12:30, we are going
413 to--moving forward now with questions of our guest, I will start
414 by recognizing myself for 5 minutes.

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

420 Mr. Wheeler. We are still working on that. We intend to
421 move forward with it. You know, it is important--there has been
422 a lot of criticism. I think a lot of the criticism is from people
423 who don't fully understand what we are doing with the proposal.

424 I cut my teeth at EPA on the community right to know and I believe
425 the more information we make available to the public, the more
426 robust our regulations will be.

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

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429 Mr. Wheeler. Before the end of this year.

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

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

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

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

447 Mr. Tonko. So they will have complete discretion.

448 Mr. Wheeler. Yes, is my understanding.

449 Mr. Tonko. In 2017, the Office of Research and Development
450 developed a review report for the Office of Pesticides Programs
451 on the epidemiology and health effects research regarding

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452 exposure to glyphosate. Why was the work not included in your
453 public release of that research and will you release it now?

454 Mr. Wheeler. I am sorry. I have to get back to you on that.
455 I am not familiar with the--

456 Mr. Tonko. Okay, the Integrated Risk Information System
457 or IRIS handbook was ready for release in December of 2018. Will
458 you publicly release the IRIS handbook now?

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

462 Mr. Tonko. When should we anticipate the--

463 Mr. Wheeler. I will have to get back to you on a deadline
464 for that.

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

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

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475 a regulatory mechanism.

476 Mr. Tonko. Well, will the IRIS assessment be released for
477 interagency review and what are the plans for external scientific
478 peer review?

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

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

492 Mr. Wheeler. We are not planning on moving forward with
493 the IRIS assessment for formaldehyde. We are moving forward
494 under TSCA.

495 Mr. Tonko. Mr. Wheeler, going back to the transparency in
496 science proposed rule, the proposal indicated that the
497 Administrator would be empowered to grant exemptions at his

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498 discretion to address issues on a case-by-case basis. Do you
499 have any thoughts as to how an administrator should go about
500 granting exemptions if this proposal moves forward?

501 Mr. Wheeler. Well, I think if there is an important
502 scientific study where the data is not available to the public,
503 the Administrator should weigh whether or not it is important
504 to move forward with that study as part of the regulatory process.

505 And I believe that that is a decision that administrators can
506 make on a case-by-case basis, but it is important to remember
507 that the proposal only is for studies going forward. It is not
508 retroactive.

509 Mr. Tonko. Well, I believe Mr. Pallone may ask about PV29,
510 but we have seen EPA under your leadership keep data and reports
511 hidden for the benefit of industry even when it was not allowable
512 under the law in the case of PV29, all while promoting a
513 transparency rule which scientific and medical experts say will
514 make it more difficult for EPA to use robust science in its
515 rulemaking process. I urge you to release the reports I have
516 raised, along with others which I intend to submit for the record.

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

519 Mr. Shimkus. Thank you, Mr. Chairman.

520 Administrator Wheeler, I want to focus my questions in two

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521 areas of interest, the substantial backlog of applications in
522 the Toxic Substance Control Act, or TSCA new chemicals provision,
523 and the Renewable Fuel Standard. According to the Agency's
524 website, as of 3 weeks ago the number of notices awaiting
525 completion of review since this law was enacted 34 months ago
526 was 62 percent higher than the historical caseload of new chemical
527 applications.

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

534 How many of those 527 pending applications are older than
535 180 days?

536 Mr. Wheeler. 270 at this point. It is lower than what it
537 was. We are working to reduce the backload. It has been within
538 the time frames for both the new chemicals and the existing
539 chemicals program under the new TSCA there has been some
540 challenges, but we are processing them faster than we were a year
541 ago.

542 Mr. Shimkus. Right. And the media asks me about this like
543 every week, so that is why I don't think it is any surprise that

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544 I am going down this part of the questioning because the whole
545 idea is to get this process moving. How many are older of these
546 527 or whatever, were older than 90 days?

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

549 Mr. Shimkus. So are these delays an EPA labor or a legal
550 problem?

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

557 Mr. Shimkus. Right. Do you have--

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

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

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

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

570 Mr. Wheeler. Yes.

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

578 Mr. Wheeler. No. Right now, we are focused on the E15,
579 the RIN price mechanism, the reset, the RVO for this year and--

580 Mr. Shimkus. You have some other issues on your plate.

581 Mr. Wheeler. Right.

582 Mr. Shimkus. Okay.

583 Mr. Wheeler. We have five pending regulations on the RFS.

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

587 Mr. Wheeler. That would be great.

588 Mr. Shimkus. I still think that is very, very important
589 because this 2022 debate is real. We don't know if you will be

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590 there. We don't know if we will have a new administration. We
591 don't know who the new EPA Administrator would be. It is kind
592 of a roll of the dice, don't you think?

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

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

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

611 So, and there is a lot of drivers as far the fuel usage,
612 and then by increasing like the E15 should also help increase

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613 the volumes for ethanol.

614 Mr. Shimkus. Thank you. My time has expired. Thank you,
615 Mr. Chairman.

616 Mr. Tonko. You are welcome. The gentleman yields back.
617 The chair now recognizes the gentleman from California,
618 Representative Peters, for 5 minutes.

619 Mr. Peters. Thank you, Mr. Chairman. I want to start with
620 two thank yous, you may not get from this side of the aisle.
621 One is, I think I am the only former EPA employee on the committee.
622 I worked in the TSCA program and though they need people, I am
623 done with that particular phase of my career.

624 Mr. Shimkus. We could use you. I think there is some forms.

625 Mr. Wheeler. We could use more help.

626 Mr. Peters. I also saw on their behalf I want to say I am
627 a little concerned about the cuts in general. I think these
628 people work very hard. They do important work and we need to
629 support them. I also want to thank you for the loan that San
630 Diego received, \$614 million loan for our water recycling project
631 known as Pure Water. And connected with that though, as you
632 pointed out that is a very important program, unfortunately you
633 are requesting \$300 million less than the enacted level in 2019.

634 I will just, without, we don't have time to go into that but
635 I will just flag, I think that is the wrong way to go for such

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636 an important program that provides so much leverage to communities
637 for environmental protection. But I did want to talk about the
638 U.S.-Mexico Border Water Infrastructure Program or BWIP.

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

648 The EPA has identified nearly \$125 million in drinking water
649 and wastewater infrastructure projects along the border in need
650 of funding to protect public health and environmental impact in
651 the United States, and yet the budget would eliminate the
652 U.S.-Mexico border program as part of the effort to restore, to
653 focus resources on core environmental work. Now since the
654 program began in 1997, it has provided hundreds of thousands of
655 U.S. households along the border adequate drinking water and
656 wastewater infrastructure. Initially funded with \$100 million
657 per year, however, it has been reduced over the last 20 years
658 to less than 10 million. Why would you say BWIP is no longer

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659 considered as part of the effort to focus resources on core
660 environmental work?

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

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

678 So we are trying to spread our money among different programs
679 to address water concerns--

680 Mr. Peters. Right, and obviously the concern we have is
681 that the BWIP program is focused on the border. So the SRF

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682 projects are only, the money is only going to projects in the
683 United States. To be eligible for the BWIP funding, projects
684 must be located within 100 kilometers or 62 miles of the
685 U.S.-Mexico border. So are you going to do something
686 specifically to make sure that border projects have dedicated
687 funding from the SRF?

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

698 Mr. Peters. Okay.

699 Mr. Wheeler. This is a high priority for me when I meet
700 with my counterparts--

701 Mr. Peters. I just expressed the concern. I appreciate
702 that too and I appreciate the administrator from Region 9 has
703 been active and present. But as you know, this is unique among
704 federal funding programs because it is the only federal program

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705 that can fund projects on both sides of the border with all
706 projects benefiting communities on the United States side of the
707 border, so I express that concern. I raise that objection and
708 hope to be able to provide you and your administrator with specific
709 tools for the U.S.-Mexico border by preserving the BWIP. And
710 I yield back.

711 Mr. Tonko. The gentleman yields back. The chair now
712 recognizes the Republican leader of the full committee, the
713 gentleman from Oregon, Representative Walden, for 5 minutes.

714 Mr. Walden. Thank you, Mr. Chairman, and thank you for
715 having this hearing. And to the Administrator, welcome back.

716 I know your years as a Senate staffer make you no stranger to
717 this kind of body and we are glad to have you over here on the
718 people's house today.

719 I appreciate your commitment, Mr. Administrator, this
720 administration and its budget to three goals to the Agency core
721 mission, cooperative federalism, and rule of law and process.

722 I think that is all really important and I appreciate your
723 leadership on so many issues including Waters of the U.S. In
724 my district I heard about it again when I did a series of town
725 halls a week ago. Farmers and ranchers pretty concerned, but
726 appreciative of where you are taking that rule and I think that
727 gives them some certainty while protecting the environment, but

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728 not going too far.

729 3 weeks ago you gave a speech about the importance of water
730 to global public health, particularly safe drinking water and
731 how unsafe drinking water poses the greatest, most immediate
732 global threat to the environment. Can you please expound upon
733 that position and how would you rate water quality in the good
734 old U.S. of A.?

735 Mr. Wheeler. Our water quality, I believe, is the safest
736 in the world. Back in the 1970s, 40 percent of our water systems
737 failed to meet EPA standards. Today, 92 percent of our water
738 systems meet the EPA standards every single day, but worldwide
739 it is a huge issue. You have one to three million people dying
740 based on water, unsafe drinking water or water sanitation issues.

741 The U.N. estimates 1,000 children die every single day from lack
742 of potable water. I think that is a huge issue and I think that
743 we have the skills, we have the technology to help solve this
744 problem worldwide.

745 Mr. Walden. Now obviously you know, Mr. Administrator, the
746 Energy and Commerce Committee in the last Congress rewrote the
747 Safe Drinking Water Act. We did that in a bipartisan way. We
748 had some good, vigorous negotiations and that became law, the
749 President signed it. And so I would like to ask you a bit about
750 the longstanding priority of this committee that when it comes

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751 to safe drinking water, Congress, last year, increased the
752 authorization for the Drinking Water Revolving Loan Fund. Does
753 the administration support a robustly funded Drinking Water State
754 Revolving Fund?

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

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

772 Mr. Walden. Yeah, I do too and we will look forward to
773 working with you on those. Are any states having trouble with

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774 their matching fund requirements under the act? What are you
775 hearing from states?

776 Mr. Wheeler. Well, we certainly had issues with Puerto Rico
777 even prior to the hurricanes there on the SRF. At this point
778 I am not aware of any states in particular with matching fund
779 issues. We can get back to you on that, but I am not aware of
780 any the state matching fund issues.

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

786 Mr. Wheeler. Absolutely. The Lean management system, I
787 think, has already shown a lot of success. It has shown success
788 on our permitting side, also on enforcement side. We are getting
789 the enforcement reports out to the regulating community faster,
790 which gets environmental improvements done faster. And I am very
791 concerned about succession planning at the Agency. Right now,
792 40 percent of our work force is eligible to retire over the next
793 5 years.

794 We hired a new Human Resources director 2 months ago. I
795 actually interviewed the person and I am told that that is not
796 typical for the Administrator because about three levels below

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797 me, but I thought it was important for me to interview the new
798 Human Resources director because I didn't want to hit her with
799 a dozen issues on her first day without having met me first.

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

806 Mr. Tonko. The gentleman yields back. The chair now
807 recognizes the chair of the full committee, the gentleman from
808 New Jersey, Representative Pallone, for 5 minutes.

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

813 Mr. Tonko. Okay. Thank you very much.

814 The Chairman. Thank you, Mr. Chairman.

815 Administrator Wheeler, you could tell from my opening that
816 I am deeply concerned about the direction of the EPA. As I said
817 in my opening, I had hoped when Scott Pruitt resigned that EPA
818 would return to its mission of protecting human health and the
819 environment, but I think that this budget shows that protecting

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820 public health is not a priority. So I have a lot of questions,
821 but I am going to try to move quickly and ask you really to answer
822 yes or no. And, you know, if you can't answer yes or no then
823 I am probably just going to assume it is a no.

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

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

834 The Chairman. All right, I appreciate that. Let me just
835 keep going. Last year, Scott Pruitt committed to me and to the
836 public that he would ban methylene chloride. But now you have
837 moved forward with only a partial ban, leaving commercial uses
838 in place. And this chemical has killed scores of workers and
839 needs to be banned for commercial uses as well, in my opinion.

840 So will you commit to banning commercial uses of methylene
841 chloride?

842 Mr. Wheeler. We are taking comment on a training and

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843 certification program for commercial users.

844 The Chairman. All right. Well, so far, the answer I guess
845 is no.

846 We have also heard a lot of talk from EPA on PFAS chemicals,
847 but we haven't seen action to go along with it. All we have so
848 far on drinking water is an intention to reach a regulatory
849 determination on two PFAS chemicals by the end of the year. I
850 don't think that is enough. So the question is, will you commit
851 to setting a strict MCL or drinking water standard for all the
852 PFAS impacting drinking water in this country and will you commit
853 to ensuring that any MCL or drinking water standard that you set
854 actually protects public health? That should be an easy yes.

855 Mr. Wheeler. We have already started the MCL process, but
856 we haven't slowed down. We are still enforcing cleanups around
857 the country. We have taken eight enforcement actions. We have
858 assisted states in dozens of enforcement actions around the
859 country.

860 The Chairman. All right. Well, it sounds like that is a
861 no, too. I just don't see how the American people can trust you
862 to protect their health and environment if you don't, you know,
863 commit to what I just asked with regard to the MCL. And to make
864 matters worse, we have seen serious efforts during your tenure
865 to circumvent transparency and hide important risk information

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866 from the public. So I don't, in my opinion, these efforts have
867 gone beyond what we saw in the Pruitt administration and are really
868 cause for concern. Now let me ask, on Pigment Violet 29
869 you have so far refused to share the scientific studies you used
870 to exonerate a chemical many believe to be dangerous and I had
871 to send you two letters to get those studies released. And when
872 you do release them you still redacted the main data tables you
873 relied on which I thought was unacceptable. Will you commit to
874 sharing those data tables with this committee and with the
875 American public? Do you follow what I am asking you?

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

879 The Chairman. So the answer is no again.

880 Mr. Wheeler. Under the law we can't, sir.

881 The Chairman. Well, that is a question of interpretation.
882 Oftentimes the Trump administration says they are following the
883 law and they don't, but whatever.

884 On PFAS, EPA recently released a notice of violation against
885 Chemours, I guess that is Dupont, one of the main PFAS
886 manufacturers, for issues at two PFAS plants. This notice should
887 be an important tool for the communities around these plants,
888 but the notice and report is so heavily redacted I think again

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889 it is ridiculous. My staff was able to find much of the redacted
890 information already available to the public, but even a generic
891 chemical identity which exists just to inform the public while
892 protecting CBI was redacted. And again, this
893 over-redaction, I know you said it with regard to the previous
894 question is, you know, you think you are required to do it. But
895 I think it is way beyond what the law requires and I think it
896 is over-redaction, really is, is I think offensive to the
897 communities that are dealing with this PFAS pollution.

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

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

907 The Chairman. Well, I think again the answer is no and I
908 disagree with what you think needs to be redacted, but I think
909 you are just not doing enough to protect public health and the
910 environment. And I appreciate your willingness to come here
911 today, but we need more from you in terms of transparency,

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912 responsiveness, and action to address serious threats to our
913 health. I just, you know, that is just my opinion and I want
914 you to know that. I appreciate your coming, but we are not getting
915 a lot of this information. Thank you, Mr. Chairman.

916 Mr. Tonko. The gentleman yields back. The chair now
917 recognizes the gentleman from West Virginia, Representative
918 McKinley, for 5 minutes.

919 Mr. McKinley. Thank you, Mr. Chairman. And welcome--

920 Mr. Wheeler. Thank you, sir.

921 Mr. McKinley. --my friend. Over the years, the various
922 regions of the EPA, the ten regions, have come under a lot of
923 criticism autonomously operating as they do, often each region
924 operating with its own individuality contrary to others. I know
925 in West Virginia that the compliance in West Virginia is out of
926 Philadelphia, can be entirely different a thousand feet across
927 the river in Ohio that comes out of Chicago. And I saw that last
928 week you were putting out a reorganization on that long overdue.

929 GAO came out with something back in 2006 called for some
930 reorganization. I know that Senator Inhofe back in 2006 also
931 called for that. So I am curious to see a little bit--thank
932 you for--hopefully you are going to address it thoroughly, but
933 there are a couple of things with it. What is your objective
934 and, secondly, what are going to be the metrics that we can measure

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935 that we have now finally gotten control over the ten agencies,
936 or ten entities?

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

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

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

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958 the regions and we will do that as well in the program offices.

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

967 Mr. Wheeler. Well, we are asking--

968 Mr. McKinley. --get more sewer and water lines built, or
969 water lines built around the country?

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

974 Mr. McKinley. But the SRF, you are cutting the SRF--

975 Mr. Wheeler. We are also requesting--

976 Mr. McKinley. --\$300 million or so. I am just trying to--I
977 am hung up on the optics.

978 Mr. Wheeler. I understand.

979 Mr. McKinley. Because my issue, every time I go to a county
980 commissioner or whatever, they are asking for more money finding

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981 they need to have water and the infrastructure. And I am having
982 a hard time to explain that there is \$80 billion flowing through
983 the system--

984 Mr. Wheeler. There is.

985 Mr. McKinley. --but they are not getting it.

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

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

1000 I am troubled with that and I am hoping that you will look
1001 at that dealing with the RINs, how we might be able to take care
1002 of that. DOE has made some kind of recommendation to you, but
1003 it is up to you now with the EPA to make a determination of whether

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1004 or not a 25,000-gallon boutique refinery should meet the same
1005 standards as a 3 million-gallon refinery. Do you have a comment
1006 about that?

1007 Mr. Wheeler. That is a very unique refinery. They
1008 specialize in lube oil instead of gasoline--

1009 Mr. McKinley. Yes.

1010 Mr. Wheeler. --as we have discussed before. I am happy
1011 to work with you and your office more on that. But it presents
1012 some different challenges as far as the small refinery exemption
1013 under--

1014 Mr. McKinley. Let's find a solution to those challenges,
1015 okay. Thank you.

1016 Mr. Tonko. The gentleman yields back. The chair now
1017 recognizes the gentlelady from the state of Delaware,
1018 Representative Lisa Blunt Rochester.

1019 Ms. Blunt Rochester. Thank you, Mr. Chairman.

1020 Mr. Wheeler, thank you for joining our committee today to
1021 talk about your Agency's budget and its priorities under your
1022 leadership. I do have to start by echoing the sentiments of my
1023 colleagues. I have a great deal of concern about your proposal
1024 to cut your Agency and your staff by nearly a third.

1025 At your Senate confirmation hearing earlier this year, you
1026 testified that President Trump and the EPA are, quote, focused

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1027 on putting Americans first, end quote. You specifically cited
1028 the administration's commitment to expanding access to safe
1029 drinking water and protecting Americans living near hazardous
1030 sites from health risks.

1031 Mr. Wheeler, I would like to just start off with a few like
1032 simple one word, yes or no questions. First, do you stand by
1033 that commitment?

1034 Mr. Wheeler. Yes, I do.

1035 Ms. Blunt Rochester. Yes. Second--thank you--do you
1036 believe that the Agency's actions under your leadership along
1037 with this budget proposal reflect that commitment?

1038 Mr. Wheeler. Yes.

1039 Ms. Blunt Rochester. And, Mr. Secretary, is it true that
1040 your fiscal year 2020 budget proposes to eliminate the safe water
1041 for small and disadvantaged communities program?

1042 Mr. Wheeler. Yes, I believe so.

1043 Ms. Blunt Rochester. Isn't it true that the purpose of that
1044 program is to support drinking water projects and activities in
1045 small and disadvantaged communities that are unable to finance
1046 projects to comply with drinking water regulations under the Safe
1047 Drinking Water Act?

1048 Mr. Wheeler. Yes, but we are looking to use the AWIA
1049 legislation that Congress passed last year to work with those

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1050 same communities. We think the flexibilities of AWIA might be
1051 a better use of the dollars.

1052 Ms. Blunt Rochester. So I am going to ask you a question
1053 because it is my understanding that this money had already been
1054 appropriated before. Can you give me the rationale? Is there
1055 a study or something that shows why you made this decision?

1056 Mr. Wheeler. We are moving forward with the money that was
1057 appropriated, but as far as for next year, 2020, we believe funding
1058 the AWIA program which would target the same communities might
1059 be a more innovative way of using the funding from Congress.

1060 Ms. Blunt Rochester. Has the program even been established?
1061 I mean it was appropriated, it is my understanding, before this
1062 year, before you even came on board.

1063 Mr. Wheeler. I am not sure I understand what you mean.

1064 Ms. Blunt Rochester. I was aware that \$45 million had been
1065 appropriated for this program, correct?

1066 Mr. Wheeler. And we are moving forward with the money that
1067 has been appropriated. But for 2020--

1068 Ms. Blunt Rochester. But you are shifting.

1069 Mr. Wheeler. --we are suggesting the money should go to
1070 AWIA, 83 million to AWIA to address some of the same communities.

1071 Ms. Blunt Rochester. So again I just want to be clear.
1072 Does that mean it is not going to be specifically targeted toward

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1073 small and disadvantaged communities? Just so I can have that
1074 on the record.

1075 Mr. Wheeler. Not from that program, but there are other
1076 ways of targeting small, disadvantaged communities through the
1077 AWIA program.

1078 Ms. Blunt Rochester. So we do have a commitment that at
1079 least \$45 million will be targeted to small and disadvantaged
1080 communities?

1081 Mr. Wheeler. I don't know the dollar amount. It depends
1082 on what the appropriations that we do receive for AWIA, but the
1083 program that you are asking about that money will be going out
1084 this year.

1085 Ms. Blunt Rochester. Okay, so first of all, my concern is
1086 that--

1087 Mr. Wheeler. So \$45 million will be going out there.

1088 Ms. Blunt Rochester. --there was a program, the money
1089 wasn't appropriated, now we are kind of putting it all together.

1090 I just want to share with you, in Delaware we have a small town
1091 called Ellendale and it is a community that has struggled to have
1092 clean, safe drinking water. They have had elevated levels of
1093 bacteria and nitrates and iron in the water and fortunately they
1094 have had residents like Mr. Harold Truxon and Ms. Delores Price
1095 who have determined and worked hard to make sure that they passed

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1096 a referendum after two failed ones, after 35 years of trying to
1097 get safe drinking water, 400 people in this small community, 20
1098 percent poverty level, and to me budgets and calendars reflect
1099 priorities.

1100 I am concerned that in addition to this, there is also the
1101 elimination of the small minority business assistance program,
1102 and so if we have priorities our budgets should reflect that.

1103 What I would love to hear is a commitment that small, rural,
1104 and disadvantaged communities that need the support and
1105 leadership can count on that kind of support and commitment and
1106 that we can see these dollars that were targeted for those areas
1107 actually go to those areas. Do I have that commitment?

1108 Mr. Wheeler. Yes. And the money for the assistance for
1109 small, disadvantaged communities of 45 million will be going out
1110 this summer, and again we believe under AWIA next year we can
1111 target those same communities.

1112 Ms. Blunt Rochester. Thank you and I yield back.

1113 Mr. Tonko. The gentlelady yields back. The chair now
1114 recognizes the gentleman from the state of Ohio, Mr. Johnson,
1115 for 5 minutes.

1116 Mr. Johnson. Thank you, Mr. Chairman.

1117 And, Mr. Wheeler, thank you again for joining us today.
1118 A few years ago I helped to get language added to Section 8 of

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1119 the Toxic Substances Control Act to create a negotiated rulemaking
1120 between EPA and regulated stakeholders to reduce duplicate
1121 reporting of unintended byproducts. Unfortunately, the legal
1122 and procedural venues were not conducive to producing a
1123 satisfactory result.

1124 I understand that the Agency is close to proposing a
1125 rulemaking under TSCA Section 8. Will that rulemaking make any
1126 effort to address duplicate reporting to the Agency?

1127 Mr. Wheeler. I believe it will, but I will have to get back
1128 to you with the details on--

1129 Mr. Johnson. Okay, yeah, could you please? I appreciate
1130 that. Thank you. In the last Congress, the subcommittee
1131 examined Clean Air Act provisions that could be updated to reflect
1132 what we have learned over 30 years such as the NSR program. We
1133 heard witnesses express concern that innovative technologies and
1134 systems to improve facilities are being left on the shelf,
1135 unfortunately, because of current NSR processes. We learned how
1136 the NSR program can make things like incremental pollution control
1137 improvements, carrying out energy efficiency upgrades and keeping
1138 facilities in good working order for safety and reliability
1139 purposes very, very challenging. I believe we also learned that
1140 we can accomplish most or all of the anticipated environmental
1141 benefits of the NSR at considerably reduced cost with creative

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1142 reforms to this program.

1143 So, Administrator Wheeler, can you speak broadly about why
1144 updating the NSR program would be beneficial and what you are
1145 going to do or what you are doing to explore administrative changes
1146 to the program?

1147 Mr. Wheeler. Absolutely. First, to answer your second
1148 part, we have a number of guidance documents we have issued over
1149 the last year and a half from the Air Office on New Source Review
1150 including the once in always in guidance and we are now working
1151 to put those into regulatory text and to offer public comment.

1152 Previously, NSR regularly discouraged companies from investing
1153 and deploying the cleanest and most efficient technologies.
1154 Through our NSR reforms we are providing clarity to permitting
1155 requirements, we are improving the overall process. We are also
1156 incentivizing investments in the latest energy technologies.

1157 So we are trying to modernize the NSR program to make sure
1158 that it is not a deterrent to pollution prevention going forward.

1159 Mr. Johnson. Okay. Would reforms that make it easier to
1160 make decisions to upgrade equipment that led to reduced greenhouse
1161 gas emissions help our nation's climate policies, do you think?

1162 Mr. Wheeler. Yes, it would.

1163 Mr. Johnson. Okay. What is the status of your proposed
1164 rulemaking to replace the Clean Power Plan and how does that

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1165 proposal address New Source Review?

1166 Mr. Wheeler. In the proposal we had a section on New Source
1167 Review to allow companies to install the latest energy-efficient
1168 equipment at their facilities and without having to trigger NSR
1169 which will get reductions faster. We are looking at whether or
1170 not to include that in the final regulation or that add as a
1171 separate NSR regulation, but in either event we will either move
1172 forward with it together or separate, but we will move forward
1173 with both pieces.

1174 The ACE proposal, once it is fully implemented, will reduce
1175 CO2 emissions from the electric power sector by 34 percent which
1176 will go a long ways to meeting our CO2 goals for the country.

1177 Mr. Johnson. Okay. Are there other initiatives you could
1178 pursue this year to provide greater certainty to facilities and
1179 will make the steps to upgrade without fear of triggering NSR?

1180 Mr. Wheeler. Yes, we have several. As I mentioned, we have
1181 several NSR regulatory rulemakings in the process. We have
1182 additional guidance documents that will be going out, but we are
1183 trying to modernize the NSR program which has kind of been stuck
1184 in 20 years and has not allowed for innovation for new pollution
1185 prevention control technologies.

1186 Mr. Johnson. Okay. I have about 33 seconds left.

1187 Recently, the Agency released a multi-prong PFAS action

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1188 plan. There are 4,000 PFAS chemicals and yet only 18 can be
1189 detected in water, and health effects are known about one-half
1190 of one percent of the substances. Can you talk just real briefly
1191 about the importance of getting the work right to understand how
1192 best to approach PFAS issues moving forward?

1193 Mr. Wheeler. Absolutely. You know, there are thousands
1194 of different PFAS chemicals. We have some of the best researchers
1195 in the world working on this in our research labs. The same
1196 control technologies can't be used for the different PFAS
1197 chemicals. Some of the long-chain compounds, the control
1198 technologies don't necessarily work for the short-chain, also
1199 the detections are different.

1200 Mr. Tonko. Okay, the gentleman yields back. The chair now
1201 recognizes the gentleman from Florida, Representative Soto, for
1202 5 minutes, please.

1203 Mr. Soto. Thank you, Mr. Chairman.

1204 Administrator Wheeler, is climate change real?

1205 Mr. Wheeler. Yes.

1206 Mr. Soto. And is it caused by human activity?

1207 Mr. Wheeler. Human activity certainly is a causing factor
1208 of climate change, yes.

1209 Mr. Soto. And is fossil fuels and other carbon emissions
1210 part of that human activity causing climate change?

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1211 Mr. Wheeler. Yes.

1212 Mr. Soto. And there was a recent NOAA report, the Federal
1213 Climate Assessment, on November 23rd, 2018. Do you agree with
1214 the assessment of what could happen based upon climate change
1215 in that NOAA report?

1216 Mr. Wheeler. Well, the assessment at least in the press
1217 focused more on the worst case scenario, which is the 8.5, RCP
1218 8.5, which that worst case scenario is actually no longer being
1219 used by the U.N.'s IPCC, so I think the news reports at least
1220 of the assessment are slightly misleading. But the underlying
1221 science, I have been briefed by my staff a few times on it. I
1222 read the assessment when it came out and we are moving forward.

1223 As I mentioned a minute ago, our ACE proposal is going to
1224 reduce CO2. Our CAFÉ standards will also reduce CO2. So we are
1225 moving forward with the authorities that Congress has given us
1226 under the Clean Air Act to address CO2.

1227 Mr. Soto. Thank you. And we had some op-eds in my local
1228 district where local constituents of mine were concerned about
1229 stacking science advisory groups with industry folks and a
1230 reduction in monitoring and enforcement. Can you give us an idea
1231 of the number of cases brought in 2016 versus '17 and '18 and
1232 what you are looking like this year as far as cases brought?

1233 Mr. Wheeler. Well, the cases do vary from year to year

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1234 particularly on the fines. This year is going to be particularly
1235 large with the recent Fiat Chrysler enforcement action that we
1236 took in January. Our criminal cases last year was an uptick,
1237 the first time we had an increase in criminal cases since 2011.
1238 We also have an increase on the audit side, so we are trying
1239 to prevent the pollution from happening through the audits. But
1240 if it does happen, we are making sure that people realize we are
1241 going to be taking criminal cases if we need to, to make sure
1242 that people are compliant with the law.

1243 Mr. Soto. So there has been an uptick in criminal and
1244 audits, but a downtick overall with civil cases; is that fair
1245 to say?

1246 Mr. Wheeler. There was a slight downtick, I believe, in
1247 civil cases last year. You know, one of the things that we have
1248 been criticized is a downtick in the number of inspections. But
1249 as we delegate more programs to the states, the states have the
1250 primacy there and they conduct the majority of the inspections.

1251 And we are providing technical assistance through our criminal
1252 lab in Colorado to a number of states around the country to help
1253 them with their inspections to make sure that they are done
1254 properly.

1255 Mr. Soto. Thank you, Mr. Wheeler. And, you know, I come
1256 from the state of Florida. We have a big issue with the red tide

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1257 and toxic algae blooms. We have had researchers say that the
1258 warmer weather may now be a key determinant of algae blooms in
1259 Lake Okeechobee. And scientists have found that over the last
1260 25 years, Lake Okeechobee has continuously warmed and according
1261 to NOAA the, quote, harmful algae blooms in general expected to
1262 increase in a warming world thanks to warming sea surface
1263 temperatures, end quote.

1264 And then the director of Florida Sea Grant at the University
1265 of Florida said, I quote, at this time it is not clear if the
1266 ecosystem services provided by Lake Okeechobee can be protected
1267 if climate change in the future decades includes both increased
1268 temperatures and less rainfall.

1269 Do you agree with those scientific assessments?

1270 Mr. Wheeler. I would have to look at those assessments
1271 specifically. I rather not give a general agreement without
1272 having read the actual assessments.

1273 Mr. Soto. Does the EPA generally agree that warming seas
1274 could exacerbate algae blooms?

1275 Mr. Wheeler. Yes. That is one of the factors exacerbating
1276 algae blooms. Also, nutrients are as well and we are working
1277 on that through a number of innovative ways. We just released
1278 a new market-based mechanism program in February to try to help
1279 farmers on nutrient-loading--

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1280 Mr. Soto. And would a reduction in emissions help combat
1281 climate change and potentially fix this potential damage in the
1282 future?

1283 Mr. Wheeler. If you are referring to reductions in CO2--

1284 Mr. Soto. Yes.

1285 Mr. Wheeler. --yes, but it is on the margins. I think
1286 adaptation is very important. And why it is important, the
1287 President was down at Lake Okeechobee last week or the week before
1288 and committed to fully funding the program there for the dike.

1289 I think that is very important. We are working on the other
1290 side with the nutrient-loading and we have some of the best
1291 researchers in the world on the algae blooms at a number of our
1292 research facilities including RTP in North Carolina which is doing
1293 some groundbreaking research on how to better protect--

1294 Mr. Soto. Thank you, Mr. Wheeler. And we appreciate the
1295 President being there. We were concerned about the budget cuts,
1296 but obviously we will be working on those.

1297 Mr. Chairman, I would like to introduce a letter to the record
1298 from nearly a dozen public health groups declaring that climate
1299 change is, in fact, a health emergency for both algae blooms and
1300 Lake Okeechobee.

1301 Mr. Tonko. At the end of the hearing we will take up all
1302 the offers for submission to the record.

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1303 Mr. Soto. Thank you.

1304 Mr. Tonko. But we are pleased to do that.

1305 The gentleman yields back and now the chair recognizes the
1306 gentleman from Missouri, Representative Long, for 5 minutes.

1307 Mr. Long. Thank you, Mr. Chairman.

1308 And, Mr. Wheeler, 362 days ago, the President issued a memo
1309 to EPA directing the Administrator to take specific actions to
1310 ensure more efficient and cost-effective implementation of the
1311 Agency's national air quality standards program. The President
1312 requested more timely processing of state implementation plans.

1313 Can you give us an update and report card on yourself on that?

1314 Mr. Wheeler. Yes. We are moving forward to conduct the
1315 five-year review for both PM and ozone and conduct them both on
1316 time. It will be the first time the Agency has ever completed
1317 that. We have taken a number of steps to shorten the review
1318 period. The Clean Air Act directs us to review it every 5 years
1319 and we are on schedule to get it done in the 5-year period which
1320 is the end of 2020.

1321 Mr. Long. Okay. The President also requested engagement
1322 with states on regional haze plans. How are you doing on that?

1323 Can you give us an update?

1324 Mr. Wheeler. I think we are doing very well on that. You
1325 know, the previous administration issued a record number of

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1326 federal implementation plans, most of them around the Regional
1327 Haze Program. In fact, they issued more FIPs than the previous
1328 four administrations combined. What we have done since March
1329 of 2017 is, on average, turn one FIP into a SIP each month, and
1330 turn it from a federal implementation to a state implementations
1331 plan.

1332 So we are working much closer with the states to make sure
1333 that they are moving forward, but we are working cooperatively
1334 and collaboratively with the states.

1335 Mr. Long. The President in that memo also requested more
1336 timely processing of pre-construction permit applications which
1337 has been a big issue. How are you doing there?

1338 Mr. Wheeler. Well, I think we are moving forward on that
1339 very well and again working closely with the states.

1340 Mr. Long. Okay. In the past two Congresses we have been
1341 trying to enact reforms to air quality standards that help prevent
1342 areas from being unfairly penalized for emissions beyond their
1343 control. I am reminded of a hearing we had in here in the last
1344 Congress when we had several folks in from California and they
1345 said that their cities, they were concerned if you took every
1346 motorcycle, every big truck, every car, every everything off,
1347 every train, everything off the highways and rails of California,
1348 they could still not comply with the ozone standards.

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1349 So the President asked in his memo that you respond more
1350 quickly to states' petitions for relief under exceptional events
1351 and international emissions provisions of the Clean Air Act.
1352 What are you doing to implement this directive?

1353 Mr. Wheeler. We are working more closely with the states.
1354 I think I mentioned in my opening statement that we moved
1355 Cleveland from a non-attainment to attainment last week for
1356 particulate matter. We have another one that we are announcing
1357 this week, I don't believe it is public yet, where we are going
1358 from non-attainment to attainment.

1359 We are trying to work with those communities and also working
1360 with them on the exceptional events and things outside their
1361 control such as forest fires or emissions from China. We know
1362 a lot more on modeling on where the emissions are coming from
1363 and a lot of the emissions that are impacting Western states,
1364 Colorado, for example, is coming from overseas.

1365 Mr. Long. And that continues to be a huge issue because
1366 if you have ever traveled to Beijing or several places in China,
1367 you can't see across the street.

1368 The President's memo also directed you to fully implement
1369 the Clean Air Act providing that require the Clean Air Scientific
1370 Advisory Committee to advise you on the adverse health or other
1371 effects that may result from implementation of revised air quality

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1372 standards. In previous administrations, the legal requirement
1373 to look at other adverse impacts including welfare, social,
1374 economic, and energy effects was ignored by the EPA.

1375 Have you provided direction or a charge to the Scientific
1376 Advisory Committee to provide you with advice about other adverse
1377 impacts that may result from efforts to meet air quality
1378 standards?

1379 Mr. Wheeler. I have. We have asked them to provide advice
1380 on all the issues you just named.

1381 Mr. Long. And that is going fairly well?

1382 Mr. Wheeler. Yes.

1383 Mr. Long. Okay. Will you provide for the record an update
1384 on each item in the President's memo that again 362 days ago when
1385 it came out and how EPA is addressing those directives?

1386 Mr. Wheeler. Yes, happy to, sir.

1387 Mr. Long. Okay, thank you.

1388 And, Mr. Chairman, I yield back.

1389 Mr. Tonko. The gentleman yields back. The chair now
1390 recognizes the gentlelady from the state of California,
1391 Representative Barragan, for 5 minutes.

1392 Ms. Barragan. Thank you.

1393 Mr. Wheeler, I want to ask you about the drinking water
1394 infrastructure portion of the budget. My understanding is that

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1395 EPA is requesting approximately \$300 million less than the fiscal
1396 year 2019 amounts were enacted; is that correct?

1397 Mr. Wheeler. Yes. That is correct.

1398 Ms. Barragan. Have you ever gone to a community and been
1399 served brown water to drink?

1400 Mr. Wheeler. Brown water to drink? Yes, probably in parts
1401 of--no offense, sir, but probably parts of West Virginia over
1402 the years.

1403 Ms. Barragan. And have you drank that brown water?

1404 Mr. Wheeler. No.

1405 Ms. Barragan. Is there a reason why you haven't drank that
1406 brown water?

1407 Mr. Wheeler. I wasn't sure of the safety of it. As I said
1408 in my opening statement though, 92 percent of the water systems
1409 in the country today meet EPA standards every single day.

1410 Ms. Barragan. Well, do you know that brown water in some
1411 communities are deemed to be safe, yet it is still brown, yet
1412 children get--they are straight-out concerned about the brown
1413 water. They are afraid of the water. They don't want to drink
1414 the water, it tastes bad. Have you heard of these reports before?

1415 Mr. Wheeler. Not specifically. But when we hear those
1416 reports we work with the communities to make sure that the water
1417 is, in fact, safe.

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1418 Ms. Barragan. Well, let me tell you--

1419 Mr. Wheeler. We work with states and local communities to
1420 test the water.

1421 Ms. Barragan. I appreciate that.

1422 Mr. Wheeler. Everyone regardless of their ZIP Code deserves
1423 safe drinking water.

1424 Ms. Barragan. I want to share with you what happened in
1425 my congressional district. In Compton, California, the water
1426 was coming out brown from the faucets. It was tested and my
1427 constituents were told that the water was okay to drink, that
1428 it was completely safe. And I guarantee you that nobody, none
1429 of the elected officials in my district wanted to drink that water.

1430 And, Mr. Wheeler, if you were served that water you wouldn't
1431 want to drink it either. This is where there is a huge disparity
1432 in environmental justice. In black and brown communities in
1433 particular and low-income communities across the country are
1434 being told it is okay, that they have to drink brown water even
1435 though it tastes terrible and even though children are afraid
1436 of it, and even though when they bathe with this water they develop
1437 rash and they have other health impacts like an upset stomach.
1438 And it is completely unacceptable that anybody would have to
1439 drink brown water. And so I invite you to go to some of
1440 those communities to see the water. If you think it is safe like

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1441 it is tested, drink it. Show the community that if it is good
1442 enough for them it should be good enough for you as well. And
1443 I see this cut by \$300 million and it concerns me and this is
1444 exactly why we are not having infrastructure projects for safe
1445 drinking water and what I would call clean water for our
1446 constituents. And so, I would ask you to visit these communities
1447 and I would invite you to some of them.

1448 I want to move on to another topic. My district also
1449 includes the Port of Los Angeles. Now it is one of the busiest
1450 shipping facilities in the country. Heavy-duty trains and trucks
1451 carry cargo back and forth between the port and major rail yards.
1452 Diesel exhaust from rail traffic is a significant source of air
1453 pollution including particulate matter. Diesel exhaust is
1454 linked to higher deaths and higher incidences of asthma, cancer,
1455 stroke, heart attack, and premature deaths.

1456 My constituents have to breathe this polluted air. These
1457 are low-income communities of color that live, work, and go to
1458 school near the port and the rail corridors. They
1459 disproportionately bear the burden of this pollution. What are
1460 you doing to help these communities by reducing air pollution
1461 from locomotives and other rail facilities?

1462 Mr. Wheeler. Well, we are working with the state of
1463 California. When I was in private practice I actually

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1464 represented the South Coast Air Quality District, so I am very
1465 familiar with the issues around the port. We are working through
1466 our Region 9 office out of San Francisco to help reduce the
1467 pollution of those areas. We have a number of grant programs
1468 that help areas like that.

1469 And we also, in addition to the locomotives issue we also
1470 have the heavy-duty diesel truck issue as well. And we announced
1471 this year that we are going to reduce NOx from the heavy-duty
1472 trucks even though it is not required by statute or by law.

1473 Ms. Barragan. I want to focus on rails, sir. I appreciate
1474 you wanting to tell me about the truck program, but could you
1475 maybe tell me on the rail program what you all are doing?

1476 Mr. Wheeler. I will have to get back to you, specifics on
1477 the rail program. I don't want to give you wrong data.

1478 Ms. Barragan. Well, will you commit to bringing EPA's
1479 regulatory power and ability to drive market incentives to bear
1480 to move the rail industry toward a zero emissions technologies?

1481 Mr. Wheeler. We are working with the rail industry and we
1482 are trying to reduce the pollution across the board.

1483 Ms. Barragan. So you won't commit. Okay, thank you. I
1484 yield back.

1485 Mr. Tonko. The gentlelady yields back. The chair now
1486 recognizes the gentleman from the state of Texas, Representative

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1487 Flores, for 5 minutes, please.

1488 Mr. Flores. Thank you, Chairman Tonko and Leader Shimkus,
1489 for today's meeting. Administrator Wheeler, thank you for being
1490 here.

1491 I would like to comment before I get into my questions about
1492 a quote from Chairman Pallone a few minutes ago. It says that
1493 a budget is an expression of priorities. I would like to remind
1494 everyone in the audience today that the Democratic House majority
1495 has recently said that they don't intend to put forward a budget,
1496 so I think the American people are rightly curious about what
1497 the Democratic House priorities are.

1498 Administrator Wheeler, in response to the design flaws of
1499 the RFS the way it is today, the statutory design flaws as well
1500 as the pending expiration of the RFS in 2022, Leader Shimkus and
1501 I put together a proposed piece of legislation that was based
1502 on input from the brightest minds and engineers not only in the
1503 vehicle space, but also in the renewable fuel space, refining
1504 community, those in the retail community for vehicle fuels. And
1505 it was done so that it proposed a high-octane standard so that
1506 we could get the most desirable level of efficiency and emissions
1507 in one solution. Do you have views on the effectiveness of
1508 that approach of having an integrated solution for fuels and
1509 vehicles in one piece of statutory legislation?

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1510 Mr. Wheeler. Well, as far as a nationwide octane standard,
1511 we don't believe we have the authority to create one absent
1512 congressional authorization.

1513 Mr. Flores. That was actually my next question, so.

1514 Mr. Wheeler. I am doing them in reverse.

1515 Mr. Flores. Okay. So you are saying the EPA doesn't have
1516 the authority. What do you think about that type of solution
1517 in terms of having a statutory solution in order to address
1518 emissions and efficiency to combined vehicle design and fuel
1519 performance specifications?

1520 Mr. Wheeler. I can't at this point give you specific
1521 administration approval, you know, acceptance or acquiescence
1522 on congressional legislation without going through the OMB
1523 process. In general terms, I do think we need to be creative
1524 in how we look at the next generation of the RFS post-2022, and
1525 I think everything should be on the table. And I think the program
1526 does need to be modernized with the way that we have seen the
1527 data develop over the last 10 years.

1528 Mr. Flores. Okay. That is what Mr. Shimkus and I were
1529 attempting to do is to be creative and to think outside the box.

1530 But we did it with having the brightest minds and engineers
1531 working on this from all parts of the space including the
1532 environmental community.

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1533 I want to follow up on Mr. Shimkus' questions regarding
1534 vehicles and fuels. Some folks in Washington would like to see
1535 a heavy reliance on electrical vehicles in the future. I think
1536 that makes some sense. However, there are some issues that we
1537 need to be concerned about in doing that, particularly the
1538 environmental impact of lithium batteries. Is the EPA studying
1539 the impact of a much higher use of electric vehicles in terms
1540 of environmental impact of lithium batteries?

1541 Mr. Wheeler. I am not aware of specifically the greater
1542 use of lithium batteries. We are not approaching the automotive
1543 industry as social engineering as I believe the previous
1544 administration did. The Obama CAFÉ standards would have required
1545 30 percent electric vehicles in order to comply with these
1546 standards by 2025. We are looking at what the American public
1547 is buying and trying to set standards regardless of the type of
1548 automobile.

1549 So we are not doing social engineering, but there are
1550 certainly issues, environmental issues around all choices
1551 including electric vehicles and lithium batteries. But every
1552 form of energy has environmental tradeoffs and oftentimes those
1553 are not recognized by proponents of one form of energy over
1554 another.

1555 Mr. Flores. Well, I appreciate your comments. I would

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1556 encourage the EPA to keep an eye on that. As electric vehicles
1557 come into more common usage there is going to be an environmental
1558 impact from lithium batteries, so I would encourage you to keep
1559 that in mind.

1560 I am going to run out of time before you get a chance to
1561 answer this question, so I am going to ask you if you would
1562 supplementally respond. In terms of the RVO reset that you are
1563 working on today, I would like to know if the EPA is looking into
1564 any sort of EV RINs, if they are looking at the impact of higher
1565 ethanol on RIN prices and gas prices, the impact on legacy
1566 vehicles, and the impact on storage facilities and retail pumps.
1567 So if you would supplementally respond that would be great.

1568 Mr. Wheeler. I would be happy to submit that for the record.

1569 Mr. Tonko. And the gentleman yields back. The chair now
1570 recognizes the gentlelady from the state of Colorado,
1571 Representative DeGette, 5 minutes, please.

1572 Ms. DeGette. Thank you so much, Mr. Chairman.

1573 Administrator Wheeler, I just want to make one point with
1574 respect to the statement you made about the pollution in Colorado,
1575 the air pollution coming from Asia. And you are right, some of
1576 that seems to be coming from other places. But our former
1577 colleague and now Governor Jared Polis has announced that he is
1578 not going to seek an exemption for that because irrespective of

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1579 the source, the fact is that the air pollution is still harming
1580 Coloradoans. And so we need to do everything we can, not just
1581 in Colorado but around the country. We need to help work with
1582 these other countries to minimize their sources, but we also need
1583 to work on it here because it makes our people sick no matter
1584 where it comes from.

1585 I want to follow up on some of the questions that my colleague
1586 was asking about environmental justice because I represent an
1587 urban area, as you know. Are you familiar with the EPA's EJ 2020
1588 Action Agenda which is on the EPA's website?

1589 Mr. Wheeler. Yes, I am.

1590 Ms. DeGette. And has the current administration adopted
1591 this Action Agenda?

1592 Mr. Wheeler. I would have to get back to you on the specifics
1593 of the answer.

1594 Ms. DeGette. You don't know whether you have adopted it?

1595 Mr. Wheeler. We elevated environmental justice to the
1596 Administrator's Office--

1597 Ms. DeGette. Right.

1598 Mr. Wheeler. --to give greater emphasis on environmental
1599 justice. And to go back to a comment--

1600 Ms. DeGette. But so the Action Agenda is on your website
1601 right now.

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1602 Mr. Wheeler. Yes. I believe we are implementing all of
1603 it.

1604 Ms. DeGette. So if you would get back to me and let me know
1605 if you support it.

1606 Mr. Wheeler. Absolutely.

1607 Ms. DeGette. One of the things that the Action Agenda has
1608 done is it asked the EPA to identify, quote, 100 of the most
1609 overburdened communities where data indicate that facilities
1610 present a high likelihood of serious noncompliance issues
1611 impacting those communities and address serious violations, if
1612 found. Are you familiar with that provision?

1613 Mr. Wheeler. Not specifically that provision. That is why
1614 I would like to get back to you on those.

1615 Ms. DeGette. Do you know if the EPA has identified the 100
1616 most overburdened communities?

1617 Mr. Wheeler. We are in the process of identifying
1618 communities around the country that are under the new economic
1619 development process where I think there is overlap between that
1620 list and the EJ list.

1621 Ms. DeGette. Okay, so when do you think you will have that
1622 done?

1623 Mr. Wheeler. I am not sure. I have to get back to you on
1624 that.

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1625 Ms. DeGette. 1 month, 6 months, a year?

1626 Mr. Wheeler. I would have to get back to you on that.

1627 Ms. DeGette. Well, I would appreciate if you would get back
1628 to me, because you do have some communities in my
1629 district--Swansea, Elyria, and Globeville--that warrant specific
1630 attention and have for years, so this is of great urgency. It
1631 sounds like the administration realizes this is of great urgency;
1632 is that right?

1633 Mr. Wheeler. Yes. In my first week on the job as the Deputy
1634 Administrator I sat down with our Environmental Justice Office
1635 to talk to them about what they are working on.

1636 Ms. DeGette. Well, that is wonderful, but we need to know
1637 which communities you are targeting.

1638 Mr. Wheeler. Right.

1639 Ms. DeGette. Thank you. Now actually the fact that you
1640 keep saying you are going to get back to me leads me to another
1641 set of issues that I have. You probably know I am the chair of
1642 the Oversight and Investigations Subcommittee of this committee,
1643 and one of the things that we are looking at in my committee is
1644 what the EPA is doing which could undermine actions against
1645 mercury, which is a toxic chemical emitted from coal-fired plants,
1646 which can lead to brain and nervous system damage in young
1647 children.

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1648 So do you know how many electric generating facilities
1649 nationwide have installed pollution controls to limit mercury
1650 emissions under the current mercury rule?

1651 Mr. Wheeler. I don't have the number off the top of my head,
1652 but that rule has been fully implemented at this point.

1653 Ms. DeGette. So does the EPA--

1654 Mr. Wheeler. We are not rolling back anything on the mercury
1655 proposal.

1656 Ms. DeGette. Okay. Does the EPA have the number?

1657 Mr. Wheeler. Yes. I am sure we have the number, I don't
1658 have the number off the top of my head.

1659 Ms. DeGette. Can you get that number to me?

1660 Mr. Wheeler. But that regulation has been fully implemented
1661 and we are not rolling that back.

1662 Ms. DeGette. Okay. Okay, great. Do you have the number?

1663 Mr. Wheeler. I will get you the number. I don't have the
1664 number off the top of my head.

1665 Ms. DeGette. Thank you. And do you know how many
1666 facilities requested an extension for complying with federal
1667 mercury standards?

1668 Mr. Wheeler. And I believe all the facilities are currently
1669 in compliance with that standard.

1670 Ms. DeGette. Okay, so you are not aware of any that have

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1671 requested an extension?

1672 Mr. Wheeler. Off the top of my head, no, I am not.

1673 Ms. DeGette. Okay. Now, so I and other members of the
1674 committee sent your Agency several requests for documents
1675 specifically relating to the last two questions I asked you and
1676 we have not gotten any documents back and so I am glad that you
1677 are saying you are going to get me information today. I am glad
1678 you are saying you are willing to work with the committee.

1679 But we have not gotten these documents, so I just want to
1680 ask you, do I have a commitment from you that we are going to
1681 get responsive documents to the requests that we are making?

1682 Mr. Wheeler. Absolutely, Congresswoman.

1683 Ms. DeGette. Okay.

1684 Mr. Wheeler. We have received seven letters from this
1685 committee. We have provided substantive responses to six of
1686 those letters, and the seventh one should be with you all in the
1687 next few days.

1688 Ms. DeGette. Okay. Well, we--

1689 Mr. Wheeler. We have provided over 4,000 pages of documents
1690 to this committee already this year.

1691 Ms. DeGette. We have a whole bunch of pages of documents.

1692 Mr. Wheeler. Yes.

1693 Ms. DeGette. A lot of them have a lot of redactions, sir.

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1694 But they don't relate to the specific requests that we are making.

1695 Mr. Wheeler. Okay.

1696 Ms. DeGette. So I would just ask if you can go back and
1697 work with your staff to look at the specific requests that we
1698 are making and try to be responsive to those.

1699 Mr. Tonko. The gentlelady yields back.

1700 Ms. DeGette. Thank you very much.

1701 Mr. Tonko. And the chair now recognizes the gentlelady from
1702 California, Representative Matsui, for 5 minutes.

1703 Ms. Matsui. Thank you, Mr. Chairman. And thank you very
1704 much, Administrator Wheeler, for coming here today.

1705 I have several questions about the proposed rollback of fuel
1706 economy and air pollution standards for light-duty trucks and
1707 cars. Now this proposed action is a perfect example of how EPA
1708 prioritizes boosting industries like oil industry over public
1709 health and safety. Last year, EPA announced a proposal to replace
1710 the Obama-era standards with a watered-down rule that would result
1711 in increased air pollution and less efficient cars on our roads,
1712 harming Americans' public health, American jobs, and the economy.

1713 As you know, California is uniquely situated. It has some
1714 of the worst air quality in the country. It also has a unique
1715 authority under the Clean Air Act to regulate pollution from cars
1716 to try to meet federal clean air standards and improve public

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1717 health. Let me ask you first, have you completed the rulemaking?

1718 Is a final rule ready for publication?

1719 Mr. Wheeler. It has not been completed yet, no.

1720 Ms. Matsui. Okay. Then why did you tell the Washington
1721 Examiner last month that you have already decided to revoke
1722 California's waiver?

1723 Mr. Wheeler. At this point we are moving forward to revoke
1724 the waiver, yes, but the rulemaking is not completed.

1725 Ms. Matsui. Okay. You said, and I quote, to have a 50-state
1726 solution we have to take care of the waiver, end quote. Putting
1727 aside for a moment that this is wrong, are you not bound by
1728 administrative law to consider all evidence and comments
1729 submitted before making a final decision?

1730 Mr. Wheeler. We are and we are working through all those
1731 comments, yes.

1732 Ms. Matsui. Okay. I would like to also discuss the fact
1733 that you publicly announced that you would not further negotiate
1734 with California. In the same interview with the Washington
1735 Examiner, you said EPA made a proposal to California. What
1736 exactly did you propose?

1737 Mr. Wheeler. That was our proposal that we released last
1738 summer was our CAFÉ proposal. And I was told--I met with Mary
1739 Nichols three times. She said that she would get us a counter

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1740 within 1 to 2 weeks. We waited over 3 months--

1741 Ms. Matsui. My understanding is that--

1742 Mr. Wheeler. --before we got a response from California.

1743 Ms. Matsui. --the back-and-forth was really not a

1744 back-and-forth at all. I mean it was nothing that was different

1745 than was proposed earlier.

1746 Mr. Wheeler. That was our proposal, Congresswoman.

1747 Ms. Matsui. Well, it didn't go anywhere with us.

1748 Mr. Wheeler. We never got a real counterproposal from the

1749 state of California.

1750 Ms. Matsui. It was the same proposal that you kept moving

1751 forward and you weren't listening to our proposal. Now,

1752 Administrator Wheeler, if you actually engaged in good faith

1753 negotiations with California automakers, with the automobile

1754 manufacturers, you could achieve a 50-state solution through a

1755 negotiated agreement. And the fact is even though you dispute

1756 this, you really never tried.

1757 I want to turn attention to the climate crisis. Last week

1758 at the D.C. Auto Show when asked about the carbon impacts of your

1759 SAFE proposal, you said that your proposed rule as compared to

1760 the Obama standards gets about the same amount of CO2 benefit.

1761 In fact, your staff gave a presentation in September 2018 to

1762 the Clean Air Act Advisory Committee that explained that your

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1763 proposal would increase carbon pollution by 3.8 billion tons
1764 through 2050.

1765 And the draft environmental impact statement for the
1766 proposed rule concluded that your recommended standards would
1767 increase carbon pollution by over seven billion tons throughout
1768 the end of the century. That is more than the total annual carbon
1769 pollution across the entire United States. Administrator
1770 Wheeler, either you are wrong or your staff and the draft
1771 environmental impact statement are wrong. What do you think it
1772 is?

1773 Mr. Wheeler. I have been told by my staff that the CO2
1774 reductions, the impact of the CO2 reductions are pretty similar
1775 to what the Obama administration would have received under
1776 their--would have gotten under their proposal.

1777 Ms. Matsui. Well, that is not exactly what the--

1778 Mr. Wheeler. Because the Obama proposal, I had a number
1779 of exemptions and off-ramps and the car automobile manufacturers
1780 aren't complying with the Obama standards today.

1781 Ms. Matsui. Well.

1782 Mr. Wheeler. Only three companies today are able to comply
1783 with this year's standards.

1784 Ms. Matsui. Well, I still believe that this is not--it
1785 sounds awfully confusing to me.

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1786 Mr. Wheeler. We have to take that into account too.

1787 Ms. Matsui. It sounds awfully confusing to me.

1788 Another issue that we would like to bring up is that there
1789 is no dispute that EPA used the OMEGA model in the rulemaking
1790 process to roll back fuel economy standards. EPA has refused
1791 to release the model. Will you commit to releasing the latest
1792 version of the model, yes or no?

1793 Mr. Wheeler. We did not use the OMEGA model for the
1794 proposal. We have been working with the OMEGA model. The last
1795 version of the OMEGA model that was finished in 2016 was released
1796 publicly, but we do not release models while we are in the middle
1797 of a rulemaking process. No.

1798 Ms. Matsui. Not at all. We would like a little more
1799 transparency here.

1800 Mr. Wheeler. Not during a rulemaking process.

1801 Ms. Matsui. Okay. Now you may pretend that climate change
1802 is not an imminent threat, but Americans across this country are
1803 reeling from natural disasters that climate change is
1804 exacerbating and it is only getting worse. We urgently need to
1805 reduce carbon pollution not recklessly boost it, and with that
1806 I yield back.

1807 Mr. Tonko. The gentlelady yields back. The chair now
1808 recognizes the gentleman from California, Representative

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1809 McNERNEY, for 5 minutes, please.

1810 Mr. McNERNEY. I thank the chairman and I thank you, Mr.
1811 Administrator, for testifying this morning.

1812 Mr. Wheeler. Thank you.

1813 Mr. McNERNEY. My district, California's 9th, is located
1814 at the northern end of the San Joaquin Valley and it is home to
1815 one of the nation's worst air quality which routinely fails to
1816 meet the federal standards for ozone and particulate pollution.

1817 That is why I was disheartened but not surprised by the budget
1818 request. Part of your Agency's mission is to protect the quality,
1819 the air quality, yet your fiscal year 2020 budget proposes a 46
1820 percent cut in funding for that purpose. Notably, the proposed
1821 cuts and categorical grants include a 35 percent cut in funding
1822 for air and radiation primarily to support state, local, and
1823 tribal air quality management programs.

1824 So how can the EPA tout principles of cooperative federalism
1825 and simultaneously undermine these principles by not providing
1826 nearly enough resources for states to conduct their own air
1827 quality programs?

1828 Mr. Wheeler. We believe the resources we have requested
1829 through the budget will allow us to return the Agency to its core
1830 mission of protecting public health and the environment and we
1831 have a number of different tools where we can help the states

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1832 and local governments meet the standards.

1833 Mr. McNerney. I think you will find there is pretty
1834 universal disagreement with that assessment, Administrator.

1835 PFAS are also of pressing concern in my district and
1836 nationwide. I had good hopes for your PFAS Action Plan, but now
1837 we see that it fails to address these exposures and the concerns
1838 of the American public. The plan does not deliver drinking water
1839 standards, Superfund cleanup requirements, waste limits, water
1840 discharge limits, air emission limits, or even report on releases.

1841 We need real action to address PFAS in our drinking water, our
1842 soil, and our air.

1843 I want to focus though on air releases because I don't think
1844 they have gotten the attention they need. I was pleased when
1845 David Ross, your assistant administrator for the Office of Water,
1846 recently told Congress that the Agency was investing in stack
1847 emissions research related to PFAS, but I don't see that or other
1848 key emission testing research in your budget. Will you commit,
1849 Mr. Wheeler, to fully funding the Office of Research and
1850 Development air emissions testing and methods for development
1851 of PFAS, will you make that commitment?

1852 Mr. Wheeler. We have not cut the research for PFAS/PFOA.
1853 We have a lot of research going on in a number of our labs around
1854 the country. It is a high priority and we are moving forward

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1855 with a lot of research. We are looking at both identifying the
1856 chemicals, trying to identify the human consequences from the
1857 different versions of the PFAS/PFOA. There are several thousand
1858 different chemicals in this family of chemicals and we are looking
1859 at the different clean-up technologies. So we are doing
1860 groundbreaking research by our EPA career employees at a number
1861 of our facilities in looking at the entire lifecycle of the
1862 PFAS/PFOA.

1863 Mr. McNerney. Okay, that sounds good. But evidence is
1864 coming in showing that air emissions of PFAS end up in our water,
1865 so we can't ignore this pollution source either. Emerging
1866 contaminants such as PFAS demand more investment in science, not
1867 the kind of cuts that we are seeing in your proposed budget.

1868 Linda Birnbaum, the director of the National Institute of
1869 Environmental Health Sciences, recently testified that the
1870 Institute's research on toxicity of PFAS chemicals, it is
1871 essential that EPA make use of this research in doing what it
1872 does to address PFAS. Will you commit to using the research of
1873 the National Institute of Environmental Health Sciences has done
1874 on PFAS chemicals and ensuring that the regulatory actions you
1875 take on PFAS are consistent to address the hazards that the Agency
1876 has identified?

1877 Mr. Wheeler. Absolutely. We are working with all of our

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1878 federal partners on this. And as I said earlier, this is the
1879 most comprehensive multimedia action plan this Agency has ever
1880 developed for an emerging chemical of concern like this.

1881 Mr. McNerney. But when you use words like "ever," that
1882 is ever developed--

1883 Mr. Wheeler. 49 years.

1884 Mr. McNerney. --and you propose huge cuts, 35-40 percent
1885 cuts, how can that be consistent?

1886 Mr. Wheeler. We have not cut our research on PFAS/PFOA and
1887 we are moving forward on a number of regulatory fronts, plus we
1888 are already enforcing our 70 parts per trillion standard at eight
1889 different sites around the country and we have assisted states
1890 in 20, over two dozen enforcement actions around the country as
1891 well. So we are moving forward to clean it up where we find it.

1892 We are using groundbreaking GIS modeling to determine where the
1893 problems are.

1894 Mr. McNerney. Well, I mean, we will have to see if that
1895 is consistent with what your testimony says.

1896 Mr. Wheeler. Absolutely.

1897 Mr. McNerney. Pat Breyse, the director of the Agency for
1898 Toxic Substance Disease Registry, also recently testified of the
1899 important work his Agency is doing to identify hazards from PFAS.
1900 Will you commit to ensuring that all regulatory actions you take

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1901 on PFAS are sufficient to address the hazards that that Agency
1902 has identified?

1903 Mr. Wheeler. Yes. Their number is very different than
1904 ours. But yes, we are working closely with ATSDR.

1905 Mr. McNerney. All right, I yield back.

1906 Mr. Tonko. The gentleman yields back. The chair
1907 recognizes the gentlelady from Michigan, Representative Dingell,
1908 for 5 minutes, please.

1909 Mrs. Dingell. Thank you, Mr. Chairman.

1910 I want to find peace, Mr. Wheeler. The issue of fuel economy
1911 standards is one that is very complex and I know you are
1912 well-versed in its history and its intricacies just like I am.

1913 But I am at a loss and I am not trying to be hostile. I care
1914 about the auto industry, it is still the backbone of the American
1915 economy and I am at a loss when it comes to reaching a consensus
1916 between everyone.

1917 I know there was a meeting in the Oval Office. I know the
1918 President asked EPA and NHTSA to work with all the stakeholders
1919 and try to come up with one standard. And it matters. This is
1920 an industry that is far more fragile, you probably do understand
1921 how fragile it is, than many people realize. And even as we were
1922 having a discussion, I keep saying to my colleagues, here, when
1923 those Obama standards were set there was an assumption that there

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1924 would be 30 percent electric vehicles.

1925 And we have a lot of problems and it doesn't help when the
1926 President takes shots at EVs, EVs need to be part of that equation.

1927 And we are competing in a global marketplace where you have
1928 countries, and I think we want to be competitive in the global
1929 marketplace, China is telling everybody they have to go with those
1930 EVs. And I called Mary Nichols myself right before she left,
1931 I think she is just about back, and said, "Am I going on a Don
1932 Quixote mission or are you willing to go to the table and sit
1933 down?'"

1934 Everybody needs this. Everybody wants it, the
1935 environmentalists, the autos. You say you are working. Mary
1936 is willing to go back to the table. Can we go to the table and
1937 get one national standard that will keep a strong competitive
1938 auto industry?

1939 Mr. Wheeler. I would love to have a one standard, 50-state
1940 solution to this. You know, when Mary Nichols gave us her
1941 counterproposal after 3 months, she said at the time that, you
1942 know, although she was the director of the California Resources
1943 Board that the board members had not signed off on it. She said
1944 that the incoming governor had not signed off on it. The outgoing
1945 governor had not signed off on it. And the attorney general who
1946 threatened to sue us at the time had not signed off on it, and

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1947 he has already sued us.

1948 There are a lot of politics going on in California over this
1949 issue. I would love to have a 50-state solution on this.

1950 Mrs. Dingell. So I understand those politics. But I also
1951 understand, you know, I am not old but I am seasoned and I know
1952 how tough these issues are, and if we can get everybody back at
1953 that table, we need to do it. This industry cannot afford to
1954 have two separate standards. We want to stay at the forefront
1955 of innovation and technology. That means money needs to be going
1956 into R&D, not a court battle that is going to go forever that
1957 is going to give this industry uncertainty.

1958 So could I get a commitment from you? Can we try to go back
1959 to that table? Mary should be back right about now. Can we do
1960 that?

1961 Mr. Wheeler. We are always open to hearing from California
1962 on this, but to be frank they did not come forward with a credible
1963 offer last fall. We were asking them for weeks, "What is it that
1964 you want?" And I think it is important to note that when we
1965 are talking about the California waiver we are not talking about
1966 the health-based standards. We are only talking about the energy
1967 efficiency standard.

1968 Mrs. Dingell. Well, you know, I mean the environmental
1969 advocates and the auto industry are okay with the continuation

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1970 of the California waiver. Who do you think we are helping by
1971 taking it away?

1972 Mr. Wheeler. If we end up having two different standards
1973 for the entire country, it is going to create problems across
1974 the board.

1975 Mrs. Dingell. Chaos.

1976 Mr. Wheeler. Chaos, it will. In our proposal California
1977 only looked at energy efficiency. Our proposal looks at energy
1978 efficiency as well as public safety and under our proposal we
1979 estimate 15,000 lives saved. California is only looking at this
1980 with one goal in mind and that is energy efficiency and CO2.
1981 We are looking at it much broader than that including public safety
1982 and using real data as far as what American consumers are
1983 purchasing today.

1984 Mrs. Dingell. So I want to continue this and I am committed
1985 because this industry and this economy and this country depends
1986 on this.

1987 So having said that, I need to ask you one other question
1988 because I have 49 seconds left. We have had an EPA lab that
1989 started out in 1920 as part of the military, then it went to the
1990 Public Health Department, and then it has been yours since EPA
1991 was founded. It is on Grosse Ile. It is critical for many things
1992 in Michigan, the Great Lakes. A couple of years ago you

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1993 threatened to close the Ann Arbor lab, the Administrator kept
1994 that open and environmentalists, auto industry, everybody said
1995 that was critical.

1996 Can you take another look at not closing this Grosse Ile
1997 EPA Office, which I have people in my office every day telling
1998 me how critical it is to the Great Lakes, emergency cleanups,
1999 et cetera? I know you were ready for that question.

2000 Mr. Wheeler. I would certainly take another look at it,
2001 but we are trying to consolidate. The Ann Arbor facility is very
2002 important. I have been to Ann Arbor twice now to visit that
2003 facility. It is very important.

2004 Mrs. Dingell. It is important.

2005 Mr. Wheeler. But we have facilities in almost every state,
2006 I think 40 states, and we need to be reducing our footprint.
2007 Congress, if the appropriations isn't directed--

2008 Mr. Tonko. We need to move on to the next--

2009 Mr. Wheeler. And we are trying to consolidate.

2010 Mrs. Dingell. Can we keep talking after this? Thank you.

2011 Mr. Tonko. Okay, thank you. The gentlelady yields back.
2012 We now recognize the gentleman from California, Dr. Ruiz, for
2013 5 minutes, please.

2014 Mr. Ruiz. Thank you, Administrator Wheeler, for being here
2015 today. I want to talk to you about a serious threat to the

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2016 public's health that affects potentially millions of Southern
2017 Californians from Riverside County all the way to L.A. County
2018 and Imperial County. The Salton Sea is California's largest
2019 inland body of water and it is shrinking. The exposed playa have
2020 very fine dust, particulate matter that is contaminated with
2021 agricultural runoff and other toxins that if they get into the
2022 air it can easily penetrate the lung-blood barrier. I am a doctor
2023 so I can follow the path.

2024 And such exposure is associated with premature death as well
2025 as asthma attacks, chronic bronchitis, decreased lung function,
2026 and respiratory disease. All of this leads to increased
2027 hospitalization, emergency room trips and doctor visits. In
2028 fact, the surrounding community already had the highest pediatric
2029 asthma hospitalization rate in the entire state of California.

2030 So this pollution, in fact, disproportionately affects the most
2031 vulnerable among us, infants, children, seniors, and low-income
2032 families. So fine particle pollution is harmful to human health
2033 even at very low concentrations.

2034 And it makes sense. We don't want chemically contaminated
2035 dust or particles or any dust in our blood. The scientific
2036 consensus recognized by hundreds of peer review articles and by
2037 EPA administrators during both Republican and Democratic
2038 administration says that fine particle pollution is a so-called

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2039 non-threshold pollutant. That means that any level of fine
2040 particle pollution exposure can cause harm.

2041 At our December 2017 hearing, then Administrator Pruitt
2042 agreed that fine particle pollution was a no-threshold pollutant.

2043 Administrator Wheeler, do you agree that fine particle pollution
2044 is a non-threshold pollutant?

2045 Mr. Wheeler. I believe most of the science directs us that
2046 way, yes--

2047 Mr. Ruiz. So yes, good. Will the EPA officially
2048 acknowledge that the presence of fine particulate matter at any
2049 threshold is a public health hazard?

2050 Mr. Wheeler. We are currently in the middle of our NAAQS
2051 review for PM. It is scheduled to be completed by the end of
2052 2020. CASAC is currently reviewing the PM science that the Agency
2053 supplied and we expect to have a report back from CASAC, so I
2054 would like to defer until I--

2055 Mr. Ruiz. Well, you just said that any amount of particle
2056 matter and dust especially those with chemicals that gets into
2057 our blood is harmful to our health.

2058 Mr. Wheeler. I believe there is still science as far as
2059 what is the composition of the particles, whether or not certain
2060 compositions have a better--

2061 Mr. Ruiz. Well, I will tell you that composition of any

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2062 particle that is small enough to enter the alveolar blood barrier
2063 is harmful to your health. There is no foreign body that is in
2064 our blood that is helpful to our human health.

2065 Mr. Wheeler. I will defer to you on the medicine, but it
2066 is my understanding that--

2067 Mr. Ruiz. So, listen, when you consider this, no--

2068 Mr. Wheeler. --composition of the PM is important.

2069 Mr. Ruiz. Yeah. Know that any foreign body in your blood
2070 regardless of the composition--

2071 Mr. Wheeler. I understand that, but some is worse than
2072 others.

2073 Mr. Ruiz. --if it can get into your blood system it is bad
2074 for your health. You know that.

2075 Mr. Wheeler. Yes.

2076 Mr. Ruiz. The Clean Power Plan rule includes a policy that
2077 particulate matter is a non-threshold pollutant, yet the EPA is
2078 in the process of repealing that rule. So consider that rule
2079 when, and that part of that rule when you look at this science
2080 as well. So by--

2081 Mr. Wheeler. The Supreme Court stayed that rule.

2082 Mr. Ruiz. Good. Excellent. By repealing the Clean Power
2083 Plan, the EPA could potentially for the first time say that any
2084 level is safe, so I am glad that the Supreme Court in fact agrees

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2085 with us.

2086 So let me move on to another issue. And part of the reason
2087 that fine particulate matter from the Salton Sea lake bed is so
2088 dangerous is because the sea is partially fed by agricultural
2089 runoff and from sources like the New River, one of the dirtiest,
2090 most polluted rivers in the country. It contains toxins, wastes
2091 and parts from animal products, and chemical runoff from companies
2092 and carcinogens like DDT.

2093 My office was recently contacted by constituents who work
2094 as CBP officers stationed at Riverside, Imperial County, who have
2095 suffered from respiratory illnesses, skin rashes, symptomatic
2096 exposure of toxins and harmful chemicals. Some have been
2097 diagnosed with chemicals. Many came concerned about their
2098 future, their health. A childhood friend of mine, Hector Acosta,
2099 also concerned about what would happen with him. Will he come
2100 down with cancer as well?

2101 They recently wrote a letter requesting your support for
2102 an epidemiological study. Will you commit to working with CBP
2103 to study the potential hazards of exposure to the New River,
2104 including conducting an epidemiological study to ensure that our
2105 public safety officers and their families are protected?

2106 Mr. Wheeler. We will have to look into that. I am not sure
2107 if that is in EPA or in ATSDR, but we will certainly help you

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2108 with--

2109 Mr. Ruiz. Great, so will you provide me an answer by June
2110 1st?

2111 Mr. Wheeler. Yes.

2112 Mr. Ruiz. Great. And before I close, I want to submit this
2113 GAO study that I recently asked GAO to do regarding EPA's
2114 meaningful consultation with tribes regarding Superfund
2115 consultation and management. They gave you a set of
2116 recommendations. I would like you to take a look at them and
2117 see if you can respond to those recommendations. I would like
2118 to submit this for the record.

2119 Mr. Tonko. Without objection.

2120 [The information follows:]

2121

2122 *****COMMITTEE INSERT 2*****

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2123 Mr. Tonko. Okay, we will--thank you. The gentleman yields
2124 back. The chair now recognizes the vice chair of the full
2125 committee, the Representative from New York, Representative
2126 Yvette Clarke.

2127 Ms. Clarke. Good morning, Mr. Chairman, Ranking Member,
2128 and Administrator Wheeler.

2129 I have some very serious concerns about the EPA's being run
2130 by former lobbyists setting the rules for former clients. Your
2131 calendars reveal that since joining the Agency you have frequently
2132 met with companies you have once represented. I want to be clear,
2133 I am concerned about the ethical and possible conflicts of
2134 interest because the mission of the EPA is so important to the
2135 health and safety of my constituents and the public nationwide.

2136 EPA plays an essential role in safeguarding us and the Agency
2137 should not be for sale. Let me focus on just one example, the
2138 EPA's Risk Management Planning Program, the so-called or also
2139 called RPM, excuse me, RMP. The RMP program offers important
2140 protections for workers, first responders, and the communities
2141 around high-risk chemical facilities. Mr. Wheeler, it is my
2142 understanding that you are pursuing rulemaking to weaken the RMP
2143 program at the urging of industry. But so long as the
2144 requirements are on the books, will you commit to aggressively
2145 enforcing them?

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2146 Mr. Wheeler. First of all, Congresswoman, yes, absolutely.
2147 But we are not moving to weaken the RMP program at all and I
2148 don't know what you are referring to in meeting with former
2149 clients. I have not met with any of my former clients under my
2150 recusal statements and I have followed the career advice of the
2151 EPA ethics officials and I am really not sure what you are
2152 referring to on that.

2153 Ms. Clarke. Well, let me--I am not going to get into a
2154 back-and-forth. That is something we can discuss. I have a
2155 short amount of time.

2156 Mr. Wheeler. But that goes to my personal integrity so I
2157 want to make sure.

2158 Ms. Clarke. I got you. We will follow up with you on that.
2159 More than 9.1 million people live in the vulnerability zones
2160 of RMP facilities in my home state of New York, meaning more than
2161 half of the state's population is at risk from accidents of those
2162 facilities. That is why the Attorney General of New York State
2163 recently led a coalition of 12 state attorney generals opposing
2164 EPA's proposed rollback of RMP protections.

2165 Your proposed rulemaking would diminish requirements for
2166 prevention, consideration of safer alternatives, third-party
2167 audits, transparency, coordination with first responders, and
2168 more. These common-sense requirements should not be removed.

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2169 In the past month, the Houston area has seen two large fires
2170 at RMP facilities, the ITC Deer Park facility and the KMCO facility
2171 in Crosby. Both fires created significant disruptions with
2172 shelter-in-place requirements and large plumes of black, toxic
2173 smoke.

2174 Mr. Wheeler, are you aware that the Deer Park facility was
2175 cited for violations of the RMP program in 2015 and some of those
2176 violations stemmed from a lack of proper prevention?

2177 Mr. Wheeler. Yes. And we have been working with the
2178 community involved. I do want to point out on the RMP program,
2179 last year we had the largest-ever settlement in the history of
2180 enforcing of the RMP program, \$150 million settlement.

2181 Ms. Clarke. Well, I think we should be doing more to prevent
2182 disasters, right. That is what that whole protocol is about.

2183 Mr. Wheeler, will you commit to strengthening the prevention
2184 requirements of the RMP program rather than weakening them?

2185 Mr. Wheeler. I don't believe we are weakening them,
2186 Congresswoman.

2187 Ms. Clarke. So you don't commit to strengthening them?

2188 Mr. Wheeler. We are enforcing them more vigorously--

2189 Ms. Clarke. You are enforcing them. I am asking whether
2190 you would strengthen them.

2191 Mr. Wheeler. We are in the middle of a rulemaking process

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2192 to reconsider certain provisions of the RMP--

2193 Ms. Clarke. All right. Let me go on to my next question
2194 because clearly you are not interested in strengthening them.

2195 Are you aware that the facility also has extensive violations
2196 of the Clean Air Act and Clean Water Act? That is the Deer Park
2197 facility.

2198 Mr. Wheeler. Yes, I am aware of that.

2199 Ms. Clarke. Okay. I don't think a facility with that
2200 record of compliance should be trusted to protect surrounding
2201 communities. Will you commit to finalizing an RMP rule that
2202 preserves the third-party audit requirements?

2203 Mr. Wheeler. Yes.

2204 Ms. Clarke. Thank you. I just think weakening a program
2205 that protects 9.1 million people in New York because the regulated
2206 industry asks you to is not your job. As an Administrator of
2207 the Environmental Protection Agency, industry may have been there
2208 for you before, but you work for the people now and you should
2209 be looking out for all of us. I hope that you will reconsider
2210 the strengthening of the protections of the RMP program.

2211 With that, Mr. Chairman, I yield back.

2212 Mr. Tonko. The gentlelady yields back. The chair now
2213 recognizes the gentleman from the state of Georgia, Mr. Carter,
2214 for 5 minutes, please.

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2215 Mr. Carter. Thank you, Mr. Chairman.

2216 Mr. Wheeler, thank you for being here. It is good to see
2217 you. We appreciate you taking time to come and talk to us. I
2218 wanted to talk very quickly about the district I represent is
2219 the 1st congressional district of Georgia. And we have two major
2220 seaports, as you know, the Port of Savannah, the number two
2221 container port on the Eastern Seaboard, the Port of Brunswick
2222 which is the number two roll-on/roll-off port in the country.

2223 Both of these are extremely important, extremely important to
2224 the economic well-being of the Southeast United States. The Port
2225 of Savannah and Brunswick are two of the major economic engines
2226 of the Southeast and it is very important that we keep those going.

2227 One of the things that I have spoken to you about in the
2228 past has been the bar pilots that are so very important in
2229 escorting the ships in and out of the harbor and the requirement
2230 now that they utilize the Tier 4 engines. Now we have had EPA
2231 personnel go out to the manufacturers that make the boats that
2232 they are required, that harbor pilots are required to have, and
2233 meet with them and they have said, "Look, we cannot meet these
2234 requirements," and EPA has agreed. And it is my understanding
2235 that through the rulemaking process that you are going to correct
2236 this.

2237 Can you tell me where we are at right now in the rulemaking

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2238 process dealing with the Tier 4 engines?

2239 Mr. Wheeler. Yes, we have submitted the rule to OMB and
2240 that should be going out for public comment shortly.

2241 Mr. Carter. Can you give me an idea about how long the OMB
2242 process may take, because obviously this is very urgent on our
2243 part.

2244 Mr. Wheeler. I am not sure if it is a 30- or 60-day review
2245 by OMB, but I will check into that and get back to you, sir.

2246 Mr. Carter. Okay. Well, I appreciate that. This is a step
2247 in the right direction, changing the rules, but time is of the
2248 essence. I just hope that everyone understands that because it
2249 just simply cannot be done. And the Tier 4 engines, I might add,
2250 is impacting other areas. We have a strong ag presence in our
2251 district as well, and now the farmers are telling us that they
2252 actually cannot get the Tier 4 engines onto the tractors and use
2253 the type of wheels that they need to use in their process. So
2254 I hope that this will be something you will be looking at as well.

2255 Mr. Wheeler. Yes, sir.

2256 Mr. Carter. Thank you. If we could kind of shift gears
2257 now about the Superfund sites. In my district and particularly
2258 in one area, we have a county, Glynn County, that has four
2259 Superfund sites and it is of major concern. In fact, last year
2260 you will remember that I hand-delivered a letter to you about

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2261 one of them that the Department of Justice and EPA have ruled
2262 on, the Terry Creek site in Brunswick, Georgia. It is the
2263 Hercules site that the Hercules plant used to be on that. And
2264 last September I gave you a letter as I say, asking you to work
2265 together with the Department of Justice to address some of the
2266 concerns that the local community had about the consent decree
2267 and the remediation plans.

2268 Do you know or can you tell me what actions have been taken
2269 on the consent decree to alleviate some of the concerns that the
2270 community leaders have?

2271 Mr. Wheeler. I believe their concerns have been addressed.
2272 And I am also told that that consent decree should be finalized
2273 in the next month or so, but I will go back and make sure that
2274 their concerns have been addressed.

2275 Mr. Carter. Do you work with the Department of Justice on
2276 this? Whose jurisdiction, who is going to be making the final
2277 decision?

2278 Mr. Wheeler. It is a collaborative process between EPA and
2279 the Department of Justice on working on the consent decrees for
2280 Superfund sites.

2281 Mr. Carter. Okay. I am very concerned also because two
2282 of these sites and in Brunswick and that area, one of them has
2283 had this designation of construction complete and that

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2284 designation has been on there for 20 years. Is that correct?

2285 Am I wrong on that?

2286 Mr. Wheeler. It might be. Part of my frustration and why
2287 we are putting such an emphasis on getting these Superfund sites
2288 cleaned up is because when they are on a national priority list
2289 for decades that means it is not a priority. As I mentioned in
2290 my opening statement, we delisted 22 sites last year, the most
2291 since 2005. We have made it a priority at the Agency to move
2292 these sites, to get them cleaned up and get them cleaned up
2293 quickly. Again, if something is on the national priority list
2294 for decades, then by definition it is not a priority.

2295 Mr. Carter. This is, you know, of major concern to this
2296 community. I have met with the community leaders and, you know,
2297 they have big plans for some of these areas, but they can't.
2298 For instance, they are looking to build a school. We can't build
2299 a school on a site like this unless we know it has been remediated,
2300 unless we know it is safe. I mean that is just irresponsible.

2301 So I hope that I can get your commitment that you will pay
2302 particular attention to this. I recognize that it would be unfair
2303 to ask you to speak on this specific site that you are probably
2304 not prepared for that, but at the same time, I hope that you will
2305 take that back and perhaps have your staff get in touch with me.

2306 Mr. Wheeler. Happy to do that, sir. Thank you.

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2307 Mr. Carter. Okay. Finally, I want to talk about
2308 biobutanol. That is something that is very important to us on
2309 the Coast because as you know the impact that that particular
2310 fuel has on marine engines is less severe than some of the other
2311 fuels that are out there. And I know that the Agency has been
2312 grappling with proposal on year-around E15, but what consumer
2313 protections can we expect you to see for boaters and other small
2314 engine operators to prevent misfueling and educate them on
2315 alternatives like biobutanol?

2316 Mr. Wheeler. Well, we do work with the gasoline stations,
2317 the oil companies to make sure that it is properly labeled and
2318 to try to make sure through education efforts, and to make sure
2319 that when you have boats that it is labeled correctly and that
2320 people are not putting the wrong fuel into their vehicles or boats.

2321 Mr. Carter. Okay. All right, I have got just about a minute
2322 left. Just to recap, Mr. Wheeler, Tier 4 engines, Superfund
2323 sites, biobutanol, okay. And I am going to yield the remainder
2324 of my time to Ranking Member Shimkus.

2325 Mr. Shimkus. I thank my colleague. And I will just be
2326 brief. I was going to raise a point of order, but since I am
2327 just going to get this last minute, Mr. Chairman, and I know there
2328 is the art of legal language. I just want us to be careful to
2329 use that to make accusations that we have no proven connection

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2330 to, no stories, no legal actions. Administrator Wheeler
2331 has served 22 of his 30 years in the public service, in the EPA
2332 Chemical Office for 5 years, serving in the EPW and now it is
2333 on the Senate side so we could attack you for that. But 15 years,
2334 and then in private practice for 8 and then here for 2 years.

2335 So I would caution my colleagues and I will be the first when
2336 there is real things to point to it is a fair game, but innuendos
2337 I would be careful of. And thank you, Mr. Chairman.

2338 Mr. Tonko. You are welcome.

2339 Let's now move to the gentleman from Maryland,
2340 Representative Sarbanes. You have 5 minutes, please.

2341 Mr. Sarbanes. Thank you, Mr. Chairman, and thanks for the
2342 opportunity to waive on to the committee today.

2343 Administrator Wheeler, I wanted to talk about the Chesapeake
2344 Bay. You won't be surprised to hear that, being a Representative
2345 from Maryland and having been a champion of the Bay, really, since
2346 I was a little kid crabbing on the Nanticoke River on the Eastern
2347 Shore, but having that opportunity obviously since I came to
2348 Congress. And I am extremely distressed at this continued run
2349 that the administration is taking at the funding for the
2350 Chesapeake Bay in many different respects. I will focus
2351 primarily today on the Chesapeake Bay Program. As you know, the
2352 President in his budget 2 years ago proposed to completely

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2353 zero-out funding for the Chesapeake Bay Program. Last
2354 year, he proposed a 90 percent cut to the funding for the
2355 Chesapeake Bay Program at EPA and has done the same thing with
2356 the budget proposal this year. And obviously that would have
2357 a huge impact on our restoration efforts for the Chesapeake Bay.
2358 There are nearly 50 Members of Congress here whose districts
2359 intersect with the Chesapeake Bay watershed. There are 17
2360 million residents of the Bay watershed, 64,000 square miles within
2361 the watershed. And the resource that that represents, not just
2362 as a national and a natural treasure, but in terms of the economic
2363 engine that it represents for Maryland and for the region, really
2364 cannot be overstated.

2365 So the proposal to come again with this kind of cut, and
2366 I will as you know over the last 2 years in response to that there
2367 has been a bipartisan pushback on the part of Members of Congress,
2368 Republicans and Democrats, who understand how valuable the
2369 program is to all of the states involved, but really to our country
2370 overall.

2371 So I wanted to ask you to comment on these cuts. I know
2372 that there were similar proposed draconian cuts made with respect
2373 to funding of the Great Lakes restoration efforts. And since
2374 the budget has come down, you and the President have now kind
2375 of reversed the position on the Great Lakes and are indicating

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2376 that the funding will be restored as you are interested in having
2377 Congress restore that funding, but we haven't had the same kind
2378 of declaration or commitment made with respect to the Chesapeake
2379 Bay.

2380 So I would ask you to comment on that, please.

2381 Mr. Wheeler. Certainly, Congressman. And first of all,
2382 I live in a Chesapeake Resource Protection Area. I am fully
2383 committed to the Bay and making sure that the health of the Bay
2384 continues to improve. The Geographic Program areas is just one
2385 area of funding that we use to help restore the Chesapeake Bay.

2386 We have other Clean Water Act programs as well, the source water
2387 protection programs authorized under the Safe Drinking Water Act
2388 to protect the watershed and including the National Pollutant
2389 Discharge Elimination System program, water quality trading and
2390 also our work involving the harmful algae blooms.

2391 Also last month, I signed a WIFIA loan for the City of
2392 Baltimore for \$202 million that will go a long ways to helping
2393 to clean up the Bay. So we have a number of different programs
2394 aside from the geographic specific programs that we can use and
2395 we do use to not only help the Chesapeake Bay, but the Great Lakes,
2396 Puget Sound, a number of watersheds all around the country. We
2397 are not limited to our programs to the geographic programs. We
2398 have a lot of other tools at our disposal.

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2399 Mr. Sarbanes. Well, I certainly appreciate you having those
2400 other tools and maintaining commitment to them is really
2401 important. But the Bay program that the EPA funds and supports
2402 is really critical because it is a leveraging program and the
2403 amount of expertise that has been assembled in the program with
2404 respect to restoring the Chesapeake is tremendous over the last
2405 few years. You are going to, I think, encounter the same kind
2406 of response you saw from Congress over the last couple of years
2407 with respect to that proposed cut.

2408 And I would just encourage you to do the kind of reevaluation
2409 that we have seen with respect to the Great Lakes restoration
2410 efforts as you are looking at the Chesapeake Bay, because I would
2411 think that the administration would want to be on the correct
2412 side of this issue in terms of maintaining a critical momentum
2413 with respect to the restoration that has happened and largely
2414 because of that leveraging resource that has been represented
2415 by the Chesapeake Bay Program.

2416 So we urge you, we beseech you to take a position of restoring
2417 that funding. You can rest assured that that is the position
2418 that we are going to assemble here in Congress on a bipartisan
2419 basis. And with that, I yield back my time.

2420 Mr. Wheeler. We will utilize all the funds that Congress
2421 gives us for the Bay.

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2422 Mr. Tonko. The gentleman yields back. The chair now
2423 recognizes the gentleman from Iowa. Representative, you have
2424 5 minutes, please.

2425 Mr. Loeb sack. Thank you, Mr. Chairman. Thank you for
2426 allowing me to waive on to this subcommittee. And I admire the
2427 clairvoyance of my friend, Mr. Shimkus. I am indeed going to
2428 ask you about the Renewable Fuel Standard, Mr. Wheeler. I am
2429 going to get right to my questions.

2430 Mr. Wheeler, have the 39 small refinery waiver requests that
2431 were at DOE last week been sent to you folks at EPA yet?

2432 Mr. Wheeler. I don't believe the formal waiver requests
2433 have been sent. We have received a list from the Department of
2434 Energy.

2435 Mr. Loeb sack. Do you expect to grant any or all of these
2436 waivers going forward?

2437 Mr. Wheeler. We will certainly take the advice of
2438 Department of Energy into account. In the past we have taken
2439 their advice in all but one instance.

2440 Mr. Loeb sack. Now looking forward, do you expect that you
2441 will have to grant any small refinery waivers for 2019, or what
2442 about 2020?

2443 Mr. Wheeler. Well, it would depend on the data each year
2444 and whether or not the small refineries have a hardship based

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2445 upon the information in the data. You know, part of that is the
2446 price of RIN.

2447 Mr. Loeb sack. And this has been hugely controversial as
2448 you know in corn country because of the waivers. What is clear
2449 to me, unfortunately, is that this particular EPA under your
2450 predecessor, hopefully that won't be the case under you, is
2451 committed to granting small refinery waivers, and every year since
2452 2013 we have seen these waivers. But the explosion the last few
2453 years has been prolific. And it appears to the American people
2454 that if a refinery applies for a waiver, it basically is guaranteed
2455 to get one, unfortunately.

2456 Just to be perfectly clear, Mr. Administrator, when you and
2457 your predecessor waive over 2.6 billion gallons of biofuels and
2458 counting, you are harming the biofuels industry, an industry that
2459 as you know is an economic driver in districts like mine in Iowa
2460 and throughout the Midwest, throughout corn country, generally.

2461 The EPA has failed to do anything to reallocate the demand
2462 destruction.

2463 Your Agency has expressly refused to take comments on a
2464 possible reallocation on the 2019-2020 RVO. You have refused
2465 to acknowledge the likelihood of waivers and rulemaking when it
2466 is clear the refiners will continue to submit applications and
2467 you all will keep granting them especially under this

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2468 administration, one that has prolifically, I have to say, handed
2469 out over 54 waivers to the oil industry so far.

2470 What is the Agency doing, if anything, to restore the 2.6
2471 billion gallons of lost biofuel demand?

2472 Mr. Wheeler. We are looking into that. But I would point
2473 out that when the Agency was not issuing the waivers, we were
2474 sued three times and we lost all three cases.

2475 So we--

2476 Mr. Loeb sack. Well, is there any statutory prohibition on
2477 reallocating the waive volumes?

2478 Mr. Wheeler. After we have set the RVOs for a year we can't
2479 go back and modify the RVO numbers, and the waiver requests come
2480 in after the RVO numbers are set.

2481 Mr. Loeb sack. Would it be easier to reallocate the gallons
2482 if you were able to determine the so-called hardship earlier in
2483 the compliance year? Do you have the ability to do that?

2484 Mr. Wheeler. Yes, we would have the ability to do that,
2485 but again we don't receive the request for the waivers until after
2486 the RVOs are set.

2487 Mr. Loeb sack. If you got them done earlier in the year,
2488 could you then potentially use the RVO to account for these waivers
2489 even as an estimate?

2490 Mr. Wheeler. It is not a factor of us getting them done

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2491 earlier because we don't receive them from the small refineries.

2492 Mr. Loeb sack. And I have just one final question, Mr.
2493 Wheeler, and it is a yes or no question. Do you acknowledge that
2494 when ethanol and biodiesel plants suffer when you grant small
2495 refinery exemptions that the farmers who grow the corn and the
2496 soybeans for ethanol and biodiesel are harmed as well?

2497 Mr. Wheeler. Yes, they are. But that is why we are also
2498 moving forward to grant the E15 year-round to provide greater
2499 markets for the ethanol.

2500 Mr. Loeb sack. I certainly hope so too, and do appreciate
2501 that.

2502 Mr. Wheeler. We hope to have that finished in time for the
2503 summer driving season.

2504 Mr. Loeb sack. And we are looking forward to that because
2505 I think the best way to deal with that issue is through regulation
2506 obviously.

2507 Mr. Chairman, this EPA I believe has been egregiously
2508 undermining the biofuels industry and hurting farmers across the
2509 country. This is what I hear from farmers every time I talk to
2510 them, quite honestly. If these actions continue, they will do
2511 reparable harm to the economy in my state and other states
2512 especially in corn and soybean country. I am going to continue
2513 to exert my oversight role as I have today, and certainly I hope

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2514 that this administration looks more favorably on our corn growers,
2515 our soybean growers, and much less favorably on big oil going
2516 forward.

2517 So thank you, and I do yield back. Thank you.

2518 Mr. Tonko. Representative Loeb sack yields back. The chair
2519 now recognizes the gentleman from Arizona, Representative
2520 O'Halleran, for 5 minutes, please.

2521 Mr. O'Halleran. Thank you, Mr. Chairman, and thank you for
2522 allowing me to waiver in.

2523 I want to discuss, Mr. Wheeler, my concerns about the pace
2524 of cleanup of the over 520 uranium mine sites on the Navajo Nation
2525 reservation and the available EPA resources to resolve this
2526 crisis. This crisis was created by the federal government. The
2527 Navajo Nation had nothing to do with this process. You will see
2528 a map on the screen identifying the sites and most of them are
2529 nearby waterways or washes.

2530 While these mines are no longer operating, the lingering
2531 high levels of radiation as admitted to by the EPA, are still
2532 causing a devastating effect to the health of Navajo people in
2533 my district. Remediation of these sites to reduce toxic
2534 exposures and ensure access to safe drinking water is moving too
2535 slowly.

2536

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2537 [Slide.]

2538

2539 Mr. O'Halleran. In fact, the monitoring systems are not
2540 even in place right now that is a USGS issue, in part, because
2541 too few resources such as staff and funding are being devoted
2542 to completing these difficult work. I cannot see how proposals
2543 for deep cuts in funding and staffing can maintain progress, let
2544 alone increase its pace. The Navajo people already have waited
2545 decades for help in cleaning up this dangerous pollution and they
2546 deserve a resolution. Administrator Wheeler, how does the EPA
2547 justify its 15 percent proposed cut, around \$115 million, to the
2548 Superfund program for hazardous site cleanups for fiscal year
2549 2020?

2550 Mr. Wheeler. Congressman, we are trying to balance a number
2551 of competing interests within the EPA budget to try to reduce
2552 the overall federal expenditures, but one thing we are doing on
2553 the Superfund program is going after the responsible parties at
2554 a higher level. We had more recoveries last year from PRPs than
2555 previous years which will hopefully free up more Superfund dollars
2556 to address other sites such as the Navajo Nation.

2557 Mr. O'Halleran. In this case I believe that waiting for
2558 that time is costing people's lives and children's quality of
2559 life and their potential for life and death issues. But I also

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2560 know that there is Superfund money there and you haven't been
2561 using it appropriately. After congressional pressure years ago,
2562 it seemed like progress was being made by the EPA in the creation
2563 of five-year plans for uranium mine cleanups which EPA released
2564 in '08 and 2014. Did the EPA meet the goals it set for itself
2565 in this latest five-year plan which recently ended in 2018, and
2566 was enough budgeted to fulfill these goals?

2567 Mr. Wheeler. If you don't mind, sir, I would like to respond
2568 for the record on that question.

2569 Mr. O'Halleran. Okay. Further, the EPA Inspector
2570 General's Office reported in August of last year that EPA had
2571 not finished developing in the prioritization methodology for
2572 the 54 sites included in the settlements as of June 2018.

2573 Mr. Chairman, I would like to submit for the record the
2574 Inspector General's report on this issue, Report Number 18P0233.

2575 Mr. Tonko. Without objection.

2576 [The information follows:]

2577

2578 *****COMMITTEE INSERT 3*****

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2579 Mr. O'Halleran. Also in this report, EPA Regions 6 and 9
2580 noted that they intend to follow through with their site cleanup
2581 contaminants and stay on schedule, but that the task completion
2582 dates are subject to available resources staffing and that both
2583 offices were operating with too few employees. In fact, both
2584 five-year plans there was no money requested from the EPA in
2585 addition to your regular budget and, frankly, the 10-year plan
2586 that is coming up does not request it either.

2587 Frankly, I am disheartened that the funds currently
2588 available for mine cleanup, so few sites have been cleaned to
2589 date even where funds are available to do the work as with the
2590 settlement fund for the Tronox mines. It seems there are still
2591 too few resources at EPA to move this work forward and many other
2592 projects that have been discussed here today.

2593 I do appreciate the EPA's process for site evaluation and
2594 tribal consultation, but the sense of urgency towards this crisis
2595 appears to be lacking, in my view. In fact, I think it is
2596 disrespectful to the people that are impacted by this and the
2597 responsibility of federal government is not being made by this
2598 administration or prior.

2599 Mr. Chairman, with this information presented I believe that
2600 we, as a committee, ought to request the EPA come in for a thorough
2601 follow-up briefing on this matter.

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2602 Mr. Wheeler, will you commit to an Agency briefing before
2603 this committee on the status of the uranium mine cleanups?

2604 Mr. Wheeler. Yes, I would.

2605 Mr. O'Halleran. I realize this is a complex and difficult
2606 task, but we should be able to make much better progress than
2607 we have been. Almost 80 years is way too long to have the Navajo
2608 Nation, the water resources of the Navajo Nation, and the Colorado
2609 River potentially impacted because of our negligence. And, Mr.
2610 Chairman, I yield back.

2611 Mr. Tonko. The gentleman yields back.

2612 Administrator Wheeler, on the fuel economy proposal I want
2613 to note that EPA's internal analysis corrected many flaws in the
2614 modeling underlying the proposed rule. And after doing so, EPA
2615 career staff concluded that instead of saving lives, the proposed
2616 rule would actually increase fatalities.

2617 And also again we thank you for appearing before the
2618 subcommittee today. And I know that you have made some comments--

2619 Mr. Shimkus. Mr. Chairman?

2620 Mr. Tonko. Yes, sir.

2621 Mr. Shimkus. Can I see the cite for that analysis that you
2622 just read?

2623 Mr. Tonko. It is in the administrative record.

2624 Mr. Wheeler. I am not familiar with that, but I would like--

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2625 Mr. Shimkus. Thank you.

2626 Mr. Wheeler. --to respond for the record on that. I am
2627 not familiar with that information.

2628 Mr. Tonko. So again we thank you for appearing before the
2629 subcommittee today. I know you made some commitments to respond
2630 to members' requests today and I hope we can receive those
2631 responses along with answers to questions for the record in a
2632 reasonable amount of time, including confirmation that the TSCA
2633 risk evaluation was sent to the National Academies of Science.

2634 I would also mention a letter--I would be remiss if I didn't
2635 mention this one that we sent a letter to EPA with Representatives
2636 Dingell, Lujan, and Welch back in December on PFAS chemicals and
2637 the TSCA program. I hope we can receive that information in the
2638 near future because this committee intends to work on PFAS this
2639 year. The 70 parts per trillion health advisory level is not
2640 a standard and it is not enforceable.

2641 So I hope EPA will provide us with the assistance necessary
2642 for us to move forward with all available information. And in
2643 regard to that December letter, might I be more specific and direct
2644 since you have had that for months, I would ask that we receive
2645 a detailed response within 7 working days.

2646 Mr. Wheeler. We will give you a response, yes.

2647 Mr. Tonko. Within 7 working days?

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2648 Mr. Wheeler. I will have to check with the staff on what--

2649 Mr. Shimkus. Mr. Chairman, are we going into a second round?

2650 Is that where we are headed?

2651 Mr. Tonko. No. I just wanted a response to our letter of
2652 December.

2653 Mr. Shimkus. Thank you.

2654 Mr. Tonko. And I think we are owed a response and I would
2655 appreciate a 7-day time frame, working day time frame by which
2656 to respond.

2657 Mr. Wheeler. I hear you and I need to check on the status
2658 of that response. We have responded. I believe we have received
2659 eight committee letters. We have responded to seven of them.

2660 Mr. Tonko. This is a December letter, Mr. Administrator,
2661 so I don't think we are being unfair, 7 working days?

2662 Mr. Wheeler. I will have to see where we are on the response.
2663 We will get it to you--

2664 Mr. Tonko. Can you give us an update in 7 working days?

2665 Mr. Wheeler. Yes, sir. We--

2666 Mr. Shimkus. Mr. Chairman, are we going to go to a second
2667 round, because-- Mr. Tonko. We are not going to a second
2668 round. I just want to get a commitment to get a response to a
2669 letter from December.

2670 Mr. Shimkus. Well, it is five and five, so.

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2671 Mr. Tonko. Okay. We have a number of documents that we
2672 ask to be for unanimous consent to enter into the record. They
2673 include a fax sheet from the Colorado Oil and Gas Association
2674 on the state's air quality advancements; an opinion letter
2675 submitted to the Gainesville Sun titled, "Attacks on science are
2676 a threat to our water"; a February 2019 report by the GAO
2677 entitled, "Superfund: EPA Should Improve the Reliability of Data
2678 on National Priorities List Sites Affecting Indian Tribes"; a
2679 letter from various public health groups entitled, "Climate
2680 Change is a Health Emergency," a declaration on climate change
2681 and health; an EPA Inspector General report on uranium mine sites
2682 on Navajo lands from August 2018; and finally, a map from the
2683 EPA Inspector General report. Again, request unanimous consent
2684 to enter the following into the record.

2685 Mr. Shimkus. Without objection, Mr. Chairman.

2686 Mr. Tonko. So moved.

2687 [The information follows:]

2688

2689 *****COMMITTEE INSERT 4*****

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2690 Mr. Tonko. And so with that, again we thank you,
2691 Administrator Wheeler. I remind members that pursuant to
2692 committee rules they have 10 business days to submit additional
2693 questions for the record to be answered by our witness.

2694 Mr. Wheeler, I ask you to respond promptly to any such
2695 questions that you may receive. At this time, the subcommittee
2696 is adjourned.

2697 [Whereupon, at 12:24 p.m., the subcommittee was adjourned.]