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6 THE FISCAL YEAR 2021 ENVIRONMENTAL

7 PROTECTION AGENCY BUDGET

8 THURSDAY, FEBRUARY 27, 2020

9 House of Representatives

10 Subcommittee on Environment and Climate Change

11 Committee on Energy and Commerce

12 Washington, D.C.

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16 The subcommittee met, pursuant to call, at 10:02 a.m., in
17 Room 2123 Rayburn House Office Building, Hon. Paul Tonko [chairman
18 of the subcommittee] presiding.

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

24 Also Present: Representatives Sarbanes, Loeb sack, Kennedy,
25 and O'Halleran.

26 Staff present: Jacqueline Cohen, Chief Environment Counsel;

27 Adam Fischer, Policy Analyst; Jean Fruci, Energy and Environment
28 Policy Advisor; Anthony Gutierrez, Professional Staff Member;
29 Caitlin Haberman, Professional Staff Member; Rick Kessler, Senior
30 Advisor and Staff Directory, Energy and Environment; Brendan
31 Larkin, Policy Coordinator; Dustin Maghamfar, Air and Climate
32 Counsel; Nikki Roy, Policy Coordinator; Jerry Couri, Minority
33 Deputy Chief Counsel, Environment & Climate Change; Peter Kielty,
34 Minority General Counsel; Bijan Koohmaraie, Minority Deputy Chief
35 Counsel, CPAC; Tim Kurth, Minority Chief Counsel, CPAC; Mary
36 Martin, Minority Chief Counsel, Energy & Environment & Climate
37 Change; Brandon Mooney, Minority Deputy Chief Counsel, Energy;
38 Kate O'Connor, Minority Chief Counsel, C&T; Brannon Rains,
39 Minority Policy Analyst; Zach Roday, Minority Communications
40 Director; and Peter Spencer, Minority Senior Professional Staff
41 Member, Environment & Climate Change.

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49 Mr. <Tonko.= The Subcommittee on Environment and Climate
50 Change will now come to order. This morning we welcome EPA
51 Administrator Wheeler. Welcome, Administrator. We welcome you
52 back to the subcommittee to examine the President's budget request
53 for fiscal year 2021.

54 This year should be familiar to members of the subcommittee.
55 Once again, the President has proposed significant cuts, this
56 time 26 percent below last year's enacted levels. If enacted,
57 I fear this funding level will jeopardize the Agency's ability
58 to fulfill its mission of protecting Americans' health and our
59 environment, and I am certain that the House will reject this
60 request.

61 Even in areas that the administration has singled out as
62 priorities, there are drastic cuts. The Drinking Water SRF, for
63 example, was proposed to be reduced by over \$260 million despite
64 the Agency's most recent needs assessment finding that the amount
65 of needed capital investment only continues to grow. By
66 contrast, the majority's infrastructure plan recognizes this need
67 and proposes significantly increased funding for our nation's
68 drinking water systems.

69 For the Superfund, another one of administration's
70 priorities, was reduced by more than \$110 million despite EPA
71 facing the biggest backlog of unfunded projects in 15 years.
72 I am also concerned that the request includes a proposed 11 percent
73 reduction to EPA's staff which is already operating at low levels.
74 There are significant numbers of experienced and dedicated

75 employees leaving or retiring, taking their institutional
76 knowledge along with them and they are not being replaced at the
77 same rate.

78 In addition to the budget, members of the subcommittee will
79 be interested in receiving updates on EPA's regulatory agenda.

80 I believe many of us are concerned that EPA is not acting urgently
81 or comprehensively enough to address serious risks to Americans'
82 drinking water. Last year, EPA issued its long-term revision
83 of the Lead and Copper Rule which, in my opinion, falls short
84 of what is necessary to reduce the threat of lead in our drinking
85 water.

86 And last week, EPA made a proposed regulatory determination
87 for PFOA and PFOS. We are still months away from a final
88 regulatory determination. And if experience with perchlorate
89 has taught us anything, we may be waiting a long time before we
90 see any finalized standard, let alone a standard that is
91 protective of our vulnerable populations. Finally, I am
92 extremely concerned by the political leadership's continued
93 treatment of scientific expertise within the Agency and outside
94 advisors. I want to highlight a story in the Washington Post
95 from December, entitled "EPA's scientific advisers warned its
96 regulatory rollbacks clash with established science." EPA's
97 Science Advisory Board, which includes many appointees by this
98 administration, has raised concerns and objections that several
99 of the most significant proposed rollbacks of environmental
100 protections are at odds with the scientific record, and proposed

101 process changes may have long-term, detrimental impacts on the
102 Agency.

103 For example, the Board's draft review of the science
104 transparency rule stated that if, and I quote, "it could easily
105 undercut the integrity of environmental laws as it will allow
106 systematic bias to be introduced with no easy remedy.'" A memo
107 from the administration to Board members this week raises further
108 concerns about the administration's efforts to sideline
109 independent scientific review of its work. It is critical that
110 our public health protections be grounded in robust science and,
111 sadly, I believe the administration continues to dismiss science
112 and expertise whenever it conflicts with its deregulatory agenda.

113 Mr. Wheeler, I thank you again for joining us this morning
114 and I look forward to today's discussion. With that, the chair
115 now recognizes Mr. Shimkus, ranking member of the Subcommittee
116 on Environment and Climate Change, for 5 minutes for his opening
117 statement.

118 Representative Shimkus?

119 Mr. <Shimkus.= Thank you, Mr. Chairman. Before I start,
120 I have a present for you, something that you have asked for, for
121 many years. Here is your personal copy of a Shimkus for Congress
122 T-shirt.

123 Mr. <Tonko.= Thank you.

124 Mr. <Shimkus.= And your personal copy of a Shimkus for
125 Congress bumper sticker.

126 Mr. <Tonko.= I have to tell you, one of the Chambers of

127 Commerce in my district is headed by a Mr. Shimkus, same exact
128 spelling, and I will make certain he sees these. I tell him they
129 are probably brothers somehow or cousins, but much appreciated,
130 Mr. Shimkus.

131 Mr. <Shimkus.= You are welcome. Lithuanian heritage, so
132 those who want to know where the ethnicity comes from.

133 Thank you, Mr. Chairman, for recognizing me for an opening
134 statement about today's subcommittee hearing on the President's
135 proposed budget for the Environmental Protection Agency in fiscal
136 year 2021. I want to join you in welcoming Administrator Wheeler
137 back to the Committee on Energy and Commerce. It is good to have
138 the Agency here to answer for itself on policy calls and budget
139 recommendations made in the President's budget.

140 Let's remember though that this proposed budget, actually
141 any President's budget, is not binding on anything Congress
142 ultimately decides to do. In my over 2 decades here, I have yet
143 to see a Congress copy a President's budget and pass it as it
144 was sent to us. During my first EPA budget hearing as ranking
145 member of the subcommittee back in 2007, the run-up to the hearing
146 was littered with press statements about how the Bush EPA didn't
147 care about the environment because it didn't propose a level of
148 funding its political opponents desired.

149 I noted then and I note now that the Beatles had it correctly,
150 money can't buy you love, and it is not certainly a guarantee
151 of an improving environment. There are lots of worthy ideas and
152 programs that EPA could address, but does it make the most sense

153 to have an EPA to do it every time? We should not advocate for
154 more funding if all it is buying is bureaucracy, regulatory
155 confusion with other agencies, or programs that don't really
156 improve public health or the environment but take funding from
157 ones that do.

158 I have said it before, but I believe it bears repeating,
159 we need to not only know how American tax dollars being spent,
160 but are Americans getting a better quality of life for the return
161 on their investment? At a macro level, the indicators are that
162 our environment is in much better shape than it was when the Agency
163 first opened its doors for business.

164 Trends in air, water, and soil pollution are positive. For
165 example, before 1970, EPA reported 40 percent of our nation's
166 drinking water systems failed to meet basic health standards.

167 Today, EPA says 92 percent of Americans receive potable water
168 from water utilities that meet all health-based standards. In
169 terms of air quality, between 1970 and 2018, the combined
170 emissions of six common pollutants including particulate matter,
171 carbon monoxide, and sulfur dioxide dropped by 74 percent in the
172 United States. The air we are breathing today is cleaner than
173 when the Agency opened its doors 5 decades ago. At a micro level,
174 between newer and more powerful detection equipment, emerging
175 questions about toxicity, and an aging workforce at EPA, nagging
176 questions and new challenges pit resources and long-term
177 priorities against each other.

178 As the Environmental Protection Agency is in the process

179 of celebrating its 50th year of operation, serious questions need
180 important thought to help transition from an EPA geared for
181 previous generations to one prepared to meet future ones. I am
182 pleased this administration has deployed objective metrics to
183 better access deliverables. I hope to explore this area during
184 my questions and I hope the answers demonstrate an Agency geared
185 towards following the law and delivering results.

186 Before I yield back my time, Mr. Chairman, I do want to
187 congratulate Administrator Wheeler for some of his recent actions
188 to provide Americans safe drinking water, the issuance of a
189 proposed update to the Lead and Copper Rule and preliminary
190 determinations to regulate PFOA and PFOS. These are significant
191 developments that have been anticipated for quite some time.
192 I applaud you for recognizing that access to safe drinking water
193 is an important environmental threat and being the one to stand
194 up and act.

195 Again, welcome, Administrator Wheeler. Thank you, Mr.
196 Chairman, and I yield back my time.

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

200 The <Chairman.= Thank you, Chairman Tonko.

201 I thank Administrator Wheeler for being here today, but I
202 am not happy with what the EPA is doing. Last year, four former
203 EPA administrators testified before our committee, criticizing
204 this EPA for failing to meet its essential lifesaving mission.

205 Christine Todd Whitman, a Republican former administrator and
206 New Jersey Governor testified, and I quote that "the EPA,
207 currently, on the track that it is on, is endangering public health
208 and the health of the environment.'" And I agree with Governor
209 Whitman's assessment. Instead of protecting public health and
210 the environment, this EPA is putting them at greater risk. And
211 former Administrator Gina McCarthy said at the hearing that EPA's
212 political leadership needs to, and I quote, "step up and do their
213 jobs."

214 Unfortunately, it is clear with this budget request that
215 EPA's political leadership is continuing on this dangerous track.

216 We are at a critical time for environmental protection. The
217 impacts of climate change are already here affecting communities
218 across the nation and the world. PFAS and other emerging
219 contaminants are showing up in our drinking water, air, and soil.

220 Our water infrastructure is crumbling and too many communities
221 are struggling with lead contamination. And we can't afford to
222 ignore these threats, but that is exactly what the Trump EPA's
223 budget request does. At a time when the backlog for Superfund
224 cleanups is the longest it has ever been, we can't afford to cut
225 Superfund funding. Yet, this budget would cut it by \$112 million.

226 When communities are struggling to get lead out of their drinking
227 water, we can't afford to cut assistance for the Drinking Water
228 State Revolving Funds, but this budget would cut that funding
229 by \$262 million.

230 When sea level rise and toxic red tides threaten coastal

231 communities, we can't afford to cut beach grants, but this budget
232 would eliminate them entirely. And when PFAS contamination is
233 being discovered in more and more communities all the time, we
234 can't afford to gut the research funding or EPA staff working
235 to develop solutions, but nevertheless this budget would slash
236 science and technology funding, toxic risks reviews, and drinking
237 water programs. These cuts like so much of what we have seen
238 from this EPA would harm public health and the environment just
239 as the former administrators predicted. But, fortunately,
240 Congress holds the power to decide how much funding these
241 important programs will actually receive and will work to protect
242 these programs and the communities they serve. I think a budget
243 speaks to the priorities of the administration proposing it.
244 This Trump administration is clearly shouting that it doesn't
245 care about safe drinking water. It has no interest in protecting
246 people from toxic chemicals in their products or their water.
247 It feels no urgency to keep PFAS out of our air, land, water,
248 or bodies, and it has no intention of dealing with the climate
249 crisis.

250 And this budget proposal simply does not allow the EPA to
251 fulfill its mission to the American people and therefore it is
252 a proposal that we have to reject. We simply cannot follow the
253 dangerous course this administration is trying to take us down.

254 Instead, House Democrats are taking action to protect public
255 health for vulnerable populations, for environmental justice
256 communities, and for future generations.

257 With the CLEAN Future Act, my colleagues and I have outlined
258 aggressive action to address climate change and other pollution.

259 With the LIFT America Act and the Moving Forward Framework, we
260 have offered infrastructure solutions that invest in protecting
261 public health while also strengthening our economy and creating
262 good paying jobs. And with the PFAS Action Act, we have set a
263 course to eliminate the threat of PFAS chemicals.

264 Instead of weakening coal ash regulations, we would
265 strengthen them. Instead of weakening vehicle emission
266 standards, we would strengthen those. And instead of leaving
267 lead service lines in the ground, we would speed replacements.

268 Instead of wasting time on unnecessary red tape before setting
269 a drinking water standard for PFAS, we would require a protective
270 standard quickly. And I think this is a better path forward to
271 combating climate change and protecting public health and the
272 environment.

273 So, in closing, I return to the testimony of former
274 Republican Administrator Whitman who stated last year that she
275 was, and I quote, "deeply concerned that 5 decades of
276 environmental progress are at risk because of the attitude and
277 approach of the current administration.'" And I just share that
278 concern. Like so much of what we have seen from the Trump
279 administration, this budget would put the climate, our air, our
280 drinking water, our land, our communities, and our planet at
281 greater risk, and this is not a path that we can afford to go
282 down, Mr. Chairman.

283 So again, I thank the Administrator for being here, look
284 forward to the testimony and questions and thank you, Chairman
285 Tonko. I yield back.

286 Mr. <Tonko.= The gentleman yields back. The chair now
287 recognizes Representative Walden, ranking member of the full
288 committee, for 5 minutes for his opening statement, please.

289 Mr. <Walden.= Good morning, Mr. Chairman.

290 Mr. <Tonko.= Good morning.

291 Mr. <Walden.= Good morning. And, Mr. Administrator, Mr.
292 Wheeler, thank you for being here. Thank you for the work you
293 are doing. You know, I have to just say, I mean listening to
294 my friend on the other side of the aisle, at least the
295 administration has put forward a budget each year. That is better
296 than this majority has done that didn't even do a budget last
297 year.

298 But anyway, we are here to hear about your budget, your
299 proposals, and your accomplishments. We are here to listen to
300 you talk about how you follow the law at the EPA and the mandates
301 of Congress. And we share a concern about cleaning up our water
302 and making sure we have clean air, but we also want those decisions
303 based on science and scientific evidence and fact. And I know,
304 especially when it comes to PFAS, PFOA, these issues you are
305 dealing with, you are following the law and trying to get to the
306 science and we appreciate that.

307 EPA has developed a strong record of success over the 50
308 years it has been in operation, an Agency, I believe, was created

309 under Richard Nixon, a Republican as I might note. According
310 to EPA's most recent numbers from 2016 to 2018, all criteria air
311 pollutants continue to decrease. Adding to long-term positive
312 trends, the air is substantially cleaner and clearer. Similar
313 improvements have been accomplished in the nation's drinking
314 water systems. In this committee we have worked together in a
315 bipartisan way in the last Congress to deal with some of these
316 issues, to clean up and modernize brownfields in the Brownfields
317 Program, to work on Safe Drinking Act and grants to our
318 communities.

319 We examined at a hearing just 2 weeks ago, the Agency is
320 actively working to strengthen and accelerate removal of lead
321 lines from the water systems, and today fully ninety-three percent
322 of the nation's drinking water systems meet all health-based
323 standards all the time. Now that is up from sixty percent of
324 the systems 50 years ago. But we know more work needs to be done
325 and we look forward to hearing about EPA's progress in this area.

326 We will talk today about progress to return polluted land
327 to beneficial use, one of the priorities of this committee over
328 the last two Congresses. I understand, for example, that the
329 Agency has made substantial strides cleaning up Superfund sites
330 so that more communities can work to produce economic opportunity
331 and jobs on those sites. On this point, I am pleased to see the
332 Administrator is continuing to emphasize the Portland Harbor
333 cleanup. You and your predecessor did what the last
334 administration was not doing, which is moving forward rapidly

335 to get the Willamette River and the harbor cleaned up in an
336 economic way and in an effective way for the environment. That
337 is something all Oregonians applaud.

338 And concerning the Brownfields Program and other committee
339 priority, it is encouraging to learn the EPA has been surpassing
340 its goals for returning land to good economic use, making some
341 1,770 sites ready for anticipated use over the past 2 years.
342 Now while there continue to be many environmental risks and
343 regulatory challenges to address, we will also talk today about
344 those and we recognize the environmental economic improvements
345 are continuing against the backdrop of the current
346 administration's broader economic policy.

347 Economic data show how the administration's pro-worker
348 policies have contributed to healthy economic growth, increased
349 household incomes, record low unemployment especially among the
350 middle- and lower-income classes, and a reinvigorated
351 manufacturing and industry. Much of this economic good news has
352 occurred because of sound tax policy, the tremendous benefits
353 of our energy revolution, removal of regulatory, unnecessary
354 barriers to economic initiative, and a focus on what is in the
355 best interest of the American consumer. It should be clear that
356 environmental progress should not be an impediment to economic
357 growth. It doesn't have to be. They can go hand in hand.

358 Indeed, the example of improving environmental metrics and
359 the EPA's priorities to reuse formerly contaminated sites to
360 create Opportunity Zones for underserved communities underscores

361 how environmental improvements can create new economic
362 opportunities. However, we should not fall for deceptive
363 arguments that a history of economic growth justifies more
364 environmental regulation. This ignores the lost economic
365 opportunities of regulatory costs and delay which do not show
366 up in GDP reports.

367 Instead, as this administration has been doing, we should
368 recognize the economic potential and additional environmental
369 benefits of updated, more streamlined regulations and more
370 efficient EPA permitting and environmental guidance. This lends
371 more certainty to development decisions and more effective
372 decisions by states and localities.

373 So for years I have heard from farmers and ranchers across
374 Oregon about the last administration's overreaching definitions
375 on Waters of the U.S. and I applaud this administration for getting
376 it right with the rule, and I appreciate the work that is being
377 done to modernize NEPA as well. And so with that, Mr. Chairman,
378 I am going to yield back so we can hear from our distinguished
379 witness and get to our questions.

380 Mr. <Tonko.= The gentleman yields back, and we thank you.

381 The chair would like to remind members that pursuant to committee
382 rules, all members' written opening statements shall be made part
383 of the record.

384 I now will introduce the witness for today's hearing, that
385 being the honorable Andrew Wheeler, Administrator of our United
386 States Environmental Protection Agency. Before we begin, I would

387 like to explain the lighting system. In front of you are a series
388 of lights. The light will initially be green. The light,
389 Administrator, will turn yellow when you have 1 minute remaining.

390 Please begin to wrap up your testimony at that point, and the
391 light will turn red when your time has, indeed, expired.

392 I now recognize Administrator Wheeler for 5 minutes to
393 provide an opening statement, please.

394 ?STATEMENT OF THE HONORABLE ANDREW WHEELER, ADMINISTRATOR, U.S.
395 ENVIRONMENTAL PROTECTION AGENCY=
396

397 Mr. <Wheeler.= Thank you. Good morning, Chairman Tonko,
398 Ranking Member Shimkus, Ranking Member Walden, Chairman Pallone,
399 and members of the subcommittee. Joining me today to discuss
400 EPA's proposed 2021 budget request are David Bloom, EPA's Acting
401 Chief Financial Officer, and Brittany Bolen, Associate
402 Administrator of EPA's Office of Policy.

403 The year 2020 marks the 50th anniversary of the creation
404 of EPA, and I think we can all agree on how far we have come over
405 that time. Today, the U.S. is a global leader with respect to
406 clean air and access to clean drinking water and we are currently
407 cleaning up contaminated lands at the fastest pace in over a
408 decade. Recently, we released the 2019 Year in Review,
409 highlighting Agency accomplishments and environmental progress
410 under President Trump. I encourage everyone to read the full
411 report and I would like to ask that this report be entered into
412 the record. Thank you.

413 Mr. <Tonko.= So approved, I believe. Yes.

414 [The information follows:]

415

416 *****COMMITTEE INSERT*****

417 Mr. <Wheeler.= The Trump administration is proving that
418 environmental protection and historic economic growth can go hand
419 in hand. Because we know that environmental issues
420 disproportionately impact children and low income and minority
421 communities, we are taking strong actions to protect these
422 populations. Through the Federal Lead Action Plan and new
423 cross-cutting Lead and Healthy Schools initiatives, EPA will
424 continue coordinating with our partners to reduce childhood lead
425 exposure and protect the most vulnerable among us.

426 For the first time in nearly 20 years, EPA issued new, tighter
427 standards for lead dust in homes and child care facilities across
428 the country. And for the first time in nearly 3 decades, EPA
429 proposed a revision to the Lead and Copper Rule. This rule would
430 ensure water systems have plans in place to rapidly respond to
431 reduce elevated levels of lead in drinking water and will focus
432 work on the most impacted areas of the country.

433 The budget request also includes additional resources to
434 implement the PFAS Action Plan to address these emerging chemicals
435 of concern. Last week, EPA determined regulatory determinations
436 for PFOA and PFOS in drinking water and also proposed to close
437 the loophole that allows new uses of products that include PFAS
438 chemicals to be imported into our country. These, along with
439 previous EPA actions, mark key milestones in EPA's extensive
440 efforts to implement the PFAS Action Plan.

441 To assist states in rebuilding aging water infrastructure,
442 the budget request includes two billion dollars to continue to

443 utilize the two State Revolving Funds. For every federal dollar
444 contributed to date, communities have received over three dollars
445 of water infrastructure investments in return. Additionally,
446 the 25 million for our WIFIA program is expected to deliver more
447 than two billion in direct credit assistance, spurring over four
448 billion in total infrastructure investments.

449 To safeguard the Americans' water supply, today we are
450 releasing our national Water Reuse Action Plan, the first
451 initiative of this magnitude coordinated across our water sector
452 to accelerate and improve water recycling and security. Eighty
453 percent of states anticipate some fresh water shortages within
454 the next decade and this plan will help all levels of government
455 ensure Americans have access to clean, safe water for generations
456 to come.

457 When it comes to reducing air pollution, the Agency is both
458 improving the State Implementation Plan process and reducing the
459 SIP backlog. EPA has redesignated 36 areas around the country
460 into attainment, lifting major regulatory burdens off local
461 communities and ensuring clean air for those communities. In
462 2019, EPA acted on over 360 SIPs, 165 of which were backlogged.

463 And just last week, Florida's final nonattainment area reached
464 attainment, putting the entire state into compliance with the
465 Clean Air Act. These achievements not only improve public
466 health, but also support greater economic growth, both of which
467 are priorities for President Trump.

468 When it comes to enforcing the nation's environmental laws,

469 EPA is significantly increasing compliance. In 2019, we received
470 voluntary disclosures at over 1,900 facilities, more than double
471 the number in 2016. And the Agency is also deterring
472 noncompliance by stepping up criminal cases, which have increased
473 in all tract categories for the first time since 2011.
474 Administrative, civil, and criminal fines were among the highest
475 in the last decade, totaling over 470 million.

476 Finally, EPA is cleaning up some of the nation's largest,
477 most complex, contaminated sites, returning them to productive
478 use. In 2019 we deleted 27 Superfund sites from the National
479 Priorities List, the most number deleted since 2001. Our budget
480 request also provides nearly 130 million for brownfields work
481 including 18 million specifically for Opportunity Zones which
482 will spur greater investment in economically distressed areas.

483 Last year, EPA selected 149 communities to receive Brownfields
484 grants, 108 of those were in Opportunity Zones in both inner cities
485 and rural communities. As EPA celebrates its 50th anniversary,
486 we can proudly say that Americans today have significantly cleaner
487 air, land, and water and we are continuing this progress in
488 ensuring all Americans, no matter where they live, can share in
489 it. Thank you, and I look forward to answering your questions.

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

491

492 *****INSERT 1*****

493 Mr. <Tonko.= Thank you, Administrator, for your opening
494 statement. We now will move to member questions. I will start
495 by recognizing myself for 5 minutes.

496 Mr. Administrator, you mentioned the 50-year history of EPA.

497 There is no question there has been a lot of progress in
498 environmental protection during this time, but today you will
499 hear from members that there are a lot of old challenges remaining
500 like Superfund cleanups and new ones emerging like PFAS. I know
501 you recognize this because you were once an employee, but I believe
502 continued progress will demand years of work on major actions
503 and the expertise of long-tenured staff.

504 So my question to you is, do you believe this budget prepares
505 our nation to deal with the environmental and public health
506 threats that we can expect during the next 50 years?

507 Mr. <Wheeler.= Yes, I do. And we are returning to the
508 basics of the Agency, focusing on air, land, and water. On the
509 Superfund program, we cleaned up more sites last year than any
510 year since 2001, and we are also increasing enforcement actions
511 against responsible parties. We increased the number of funds
512 recovered last year to reimburse EPA for cleanup.

513 So it is not just the amount of money we receive through
514 the appropriations process that cleans up Superfund sites, but
515 it is the money we go after responsible parties and that number
516 increased last year over the previous year as well.

517 Mr. <Tonko.= But in the bigger picture, I really believe
518 that we, as an Agency EPA needs time, it needs quality staff,

519 qualified staff, and science, and hollowing out the Agency will
520 have long-term ramifications.

521 Mr. <Wheeler.= We, you know, right now as of today, 40
522 percent of our workforce is eligible to retire. It is why I hired
523 a new human resources director last year. I actually interviewed
524 the candidate for the human resources position which is three
525 or four levels below me. I was told that administrators never
526 interview human resource directors. I want to make sure we have
527 the hiring right for the EPA of the future. Last year we hired
528 a thousand new employees. We are stepping up our hiring of
529 professionals. We are stepping up our hiring of scientists.
530 But it is difficult to attract qualified people to get through
531 the entire opening process.

532 Mr. <Tonko.= Okay, Mr. Administrator, I would like to move
533 on.

534 Mr. <Wheeler.= Sure.

535 Mr. <Tonko.= Is it fair to say that the Agency's role in
536 addressing climate change is not a priority in this budget?

537 Mr. <Wheeler.= No, we are moving forward on climate change
538 as well. That is why we finalized our ACE rule last summer which
539 will show a thirty-four percent reduction in CO2 from 2005 levels
540 from the utility sector. We are moving forward with our CAFÉ
541 standards which continue to show CO2 reduction from cars, why
542 we are working on methane, even why we are working on food waste
543 reduction.

544 Mr. <Tonko.= Well, we went through your testimony as well

545 as the 124 pages of EPA's budget and brief. There is essentially
546 zero mentions of the words "climate change" or "carbon dioxide."
547 The only references we could find were in the section about
548 eliminated programs which include the Atmospheric Protection
549 program and the Global Change Research program, otherwise there
550 is just a single mention of methane as a potent greenhouse gas
551 in the context of reducing food waste in landfills, which is far
552 from the level of leadership necessary from EPA to reduce climate
553 pollution.

554 Mr. <Wheeler.= Well, I think our actions speak louder than
555 the words in the budget, and we are reducing CO2 through ACE,
556 through CAFÉ, through our methane regulations, and also our food
557 waste program.

558 Mr. <Tonko.= Well, is it doing that at the pace that the
559 scientific community says is necessary, or even less ambitious
560 than that at the pace to achieve the United States' commitments
561 under the Paris Agreement?

562 Mr. <Wheeler.= Well, President Trump has withdrawn from
563 the Paris Climate Agreement, and we are utilizing the laws that
564 Congress has passed and our regulations follow the laws that
565 Congress has passed unlike the Clean Power Plan of the Obama
566 administration which was stayed by the Supreme Court.

567 Mr. <Tonko.= Well, excluding climate from the budget,
568 eliminating research and voluntary industry partnership programs
569 and weakening modest, existing rules, which has happened, does
570 not give me any indication that the Agency is taking this

571 environmental threat seriously.

572 Mr. Administrator, in your written testimony you said, and
573 I quote, "It is more important than ever we send a message to
574 the public that when they encounter environmental threats, we
575 will address them head-on. And we want the world to know that
576 when they encounter environmental threats, we are ready to help.''

577 Do you think the public is receiving the message that the EPA
578 is addressing greenhouse gas pollution head-on?

579 Mr. <Wheeler.= I do. As when we wrote out our ACE rule
580 last summer, we readdressed climate change through the ACE rule.

581 We are also addressing it through the other regulations I have
582 already mentioned. But again, we are using the laws of congresses
583 past. Congress has not passed any new additional laws to address
584 climate change.

585 Mr. <Tonko.= Do you think the world believes--

586 Mr. <Wheeler.= We are working within the boundaries of the
587 law that Congress has given us to implement regulations, follow
588 the four corners of the law.

589 Mr. <Tonko.= Do you think the world believes the United
590 States is prepared to do its part in a global response to climate
591 change?

592 Mr. <Wheeler.= We take climate change seriously and we are
593 implementing the laws that Congress gave us. The U.S. is a global
594 leader in clean air progress including the traditional criteria
595 pollutants like particulate matter and ground level ozone.

596 Mr. <Tonko.= Mr. Administrator.

597 Mr. <Wheeler.= Yes.

598 Mr. <Tonko.= With all due respect, I don't understand how
599 you could possibly make a statement like that after the
600 administration's complete abandonment of any semblance of federal
601 climate action. Americans are watching, the world is watching,
602 and I don't think anyone is reassured. That is why this committee
603 is taking our nation's climate response seriously and we have
604 proposed many policies to reduce pollution, including directing
605 EPA to take meaningful actions under its existing authorities.

606 And with that I will now recognize Representative Shimkus,
607 ranking member of the subcommittee, for 5 minutes, please.

608 Mr. <Shimkus.= Thank you, Mr. Chairman. We would like to
609 welcome everyone in our audience. I always like to recognize
610 the students that are here observing the hearing. Thank you for
611 being here. And also, I will start that we had a Wounded Warrior
612 in our office. He probably would be mad if I called him out,
613 but I am not going to mention his name, but he did get hired at
614 Region 5. A Wounded Warrior is one, a program that we have here
615 to help transition those soldiers, and we were very pleased that
616 he is now working for Region 5 up in the Chicagoland. So we want
617 to thank you for that.

618 Last December, the Bloomberg Environmental ran a story by
619 David Schultz on the proposed Lead and Copper Rule, calling it
620 "sneakily strong," and pushing back on national environmental
621 advocacy groups suggesting that it is weak, and I have the story
622 here. Could you speak to some of the elements of that rule that

623 you consider especially strong, particularly the public
624 disclosure requirements?

625 Mr. <Wheeler.= Absolutely. And that is one of the
626 strengths, one of the many strengths in our proposal. Requiring
627 the disclosure of where the lead service lines are is extremely
628 important. I think everybody should know whether or not the water
629 lines that serve their houses contain lead. We set a three
630 percent replacement rate, but what we did was we got rid of all
631 the off-ramps and all the exemptions that water companies have
632 been able to use in the past for replacing lead service lines.

633 In the past you would get credit for partial replacement.
634 We don't allow that anymore under our proposal. We also require
635 that if a homeowner replaces their lead service lines that the
636 water utility must replace the line servicing the home as well.
637 So we are going to see a lot more increased lead service lines
638 replacements. We are also requiring in our proposal the testing
639 of water in all schools and daycare centers. The population that
640 is most impacted by lead in drinking water are small children,
641 so this has never been required before and we will be requiring
642 the testing of water in all schools and daycare centers, which
643 will help reassure parents everywhere that their children are
644 not exposed to lead in their drinking water.

645 Mr. <Shimkus.= Thank you, Administrator.

646 Many of the same people who derided the proposed Lead and
647 Copper Rule also suggested the Agency cannot be trusted to, "do
648 the right thing'' when it comes to PFAS. They argue for statutory

649 mandates on every action EPA takes on this class of chemicals.

650 Can you tell me about the progress EPA has made under the PFAS
651 Action Plan?

652 Mr. <Wheeler.= Absolutely. We have made a lot of progress.
653 We proposed an MCL just last week for the two PFAS substances.
654 We issued our groundwater guidance in December. We added 172
655 of the PFAS chemicals to the Toxics Release Inventory. We also
656 just last week published the SNUR, the Significant New Use Rule,
657 to stop the importation of products that may contain PFAS. We
658 finalized, well, we proposed draft toxicity assessments last
659 year. We will finalize them this year and we are increasing our
660 research in this area.

661 We increased our research request for PFAS for general
662 research and we also funded, well, proposed funding, five million,
663 in research grants for agriculture communities. And just this
664 week, we issued our EPA PFAS Action Plan Program update, and I
665 would like to submit this for the record as well, which outlines
666 everything that I just covered and a lot more. We have every
667 program office in the Agency working on PFAS. So I would like
668 to request this be made part of the record.

669 Mr. <Tonko.= Without objection.

670 [The information follows:]

671

672 *****COMMITTEE INSERT*****

673 Mr. <Wheeler.= Thank you.

674 Mr. <Shimkus.= What can we expect to see from the Agency
675 in the next 6 months on this issue of PFAS?

676 Mr. <Wheeler.= In the next 6 months we will be finalizing
677 the toxicity assessments that we released this past fall. We
678 will be making progress on the TRI side as well. We are taking
679 the next steps on the MCL. And our research, we are focusing
680 on four different areas of research.

681 First of all, the analytical methods to identify the presence
682 of PFAS, there are over 600 different PFAS chemicals currently
683 in commerce. We have had over 1,200 PFAS chemicals in commerce
684 over the last 12 years and the EU and the OECD have identified
685 over 5,000 PFAS chemicals. You can't use the same technologies
686 to identify all the chemicals in the drinking water. You can't
687 use the same cleanup technologies to clean up all of them. You
688 have long chain, short chain forms of PFAS and it takes a lot
689 of different scientific research and analytical methods to
690 identify the substances, clean them up, identify which ones have
691 the greatest environmental and human health impacts, as well as
692 understanding how they transport and the exposure of the
693 chemicals.

694 Mr. <Shimkus.= Thank you, Mr. Chairman. I yield back my
695 time.

696 Mr. <Tonko.= The gentleman yields back. The chair now
697 recognizes Representative Yvette Clarke who is vice chair of the
698 full committee, for 5 minutes, please.

699 Ms. <Clarke.= I thank you, Chairman Tonko and Ranking Member
700 Shimkus, for convening this hearing on the President's budget
701 proposal for the Environmental Protection Agency. And thank you,
702 Administrator Wheeler and your colleagues, for being here to offer
703 testimony.

704 Mr. <Wheeler.= Thank you.

705 Ms. <Clarke.= Just this past December, the House and the
706 Senate came together in a bipartisan fashion to approve fiscal
707 year 2020 appropriations for the EPA, which restored our nation's
708 critical environmental funding that Donald Trump had attempted
709 to cut the last time we all went through this process. And yet,
710 we find ourselves right back here again for the 4th year in a
711 row faced with another budget request from the White House that
712 slashes our nation's environmental safeguards and programs.

713 So, Administrator Wheeler, I just have a number of yes or
714 no questions for you starting with the area of air pollution,
715 and I wanted to know whether you acknowledge that more than 140
716 million Americans now live in counties with unhealthy air quality
717 in terms of ozone pollution and particulate pollution.

718 Mr. <Wheeler.= I am not sure of the number, but I know that
719 we have moved more areas of the country from nonattainment to
720 attainment during the last three years than the previous eight
721 years.

722 Ms. <Clarke.= Yes, so I just wanted to drill down and let
723 you know it is 140 million Americans. Were you aware of that,
724 yes or no?

725 Mr. <Wheeler.= I am not sure of the source of your data.
726 I know that there are some environmental groups that have put
727 out numbers.

728 Ms. <Clarke.= Okay, all right.

729 Mr. <Wheeler.= We use the EPA numbers for that.

730 Ms. <Clarke.= Enough said. Are you aware of the fact that
731 climate change is leading to rising surface air temperatures that
732 trigger greater levels of ozone pollution in cities and
733 particulate pollution from events such as wildfires?

734 Mr. <Wheeler.= I know that wildfires are--

735 Ms. <Clarke.= Yes or no.

736 Mr. <Wheeler.= Some people believe--

737 Ms. <Clarke.= So are you aware that--

738 Mr. <Wheeler.= --that it is causing wildfires, but there
739 is also, I think--

740 Ms. <Clarke.= You are aware that there is a greater level
741 of--

742 Mr. <Wheeler.= --greater causes of wildfires, including
743 forestry practices.

744 Ms. <Clarke.= You are aware that there is a greater level
745 of ozone pollution in cities based on such as what--based on--

746 Mr. <Wheeler.= I am not sure that there is a direct
747 correlation between--

748 Ms. <Clarke.= Okay, no problem.

749 Mr. <Wheeler.= --climate change and ozone pollution or not.

750 Ms. <Clarke.= Mr. Wheeler, do you acknowledge that

751 pollution from fossil fuel-burning vehicles and power plants
752 directly contribute to high levels of asthma as well as other
753 respiratory and cardiovascular conditions, particularly among
754 low-income families and communities of color?

755 Mr. <Wheeler.= I don't believe the science has settled that
756 because air pollution--

757 Ms. <Clarke.= Okay, so I am assuming--

758 Mr. <Wheeler.= --has been reduced and the asthma cases--

759 Ms. <Clarke.= I am assuming that is a no.

760 Mr. <Wheeler.= --have gone up.

761 Ms. <Clarke.= I am assuming that is a no.

762 Mr. <Wheeler.= That is a no.

763 Ms. <Clarke.= Okay, perfect. I ask these questions, Mr.
764 Wheeler, because these facts are critically important to
765 understanding the big picture of how your budget and policy
766 decisions directly impact the health and well-being of
767 communities in my district in Brooklyn and in districts like mine
768 across the country. Whether or not you choose to acknowledge
769 it now, these are the facts that we face as a nation.

770 Given that the EPA's fundamental priorities include
771 protecting human health and clean air, I am trying to understand
772 why and how this budget request justifies chopping almost 50
773 percent of the current funding that goes to our national programs
774 to improve air quality. How do you explain this?

775 Mr. <Wheeler.= I don't think that is accurate and I just
776 want to clarify for the record that all six criteria air pollutants

777 have gone down--

778 Ms. <Clarke.= You don't--

779 Mr. <Wheeler.= --under President Trump's watch.

780 Ms. <Clarke.= You don't acknowledge that there has been
781 a fifty percent cut?

782 Mr. <Wheeler.= Our air is cleaner than it was 3 years ago.

783 Ms. <Clarke.= So you are saying there is not a fifty percent
784 cut?

785 Mr. <Wheeler.= I don't believe it is a fifty percent cut,
786 no.

787 Ms. <Clarke.= It is.

788 Mr. <Wheeler.= But again, our air pollution has gone down
789 over the last 3 years. Our air is cleaner than it ever has been.
790 Seventy-four percent reduction in the six criteria air
791 pollutants since 1970 and all six have gone down over the last
792 3 years.

793 Ms. <Clarke.= One of the clean air cuts in this budget--

794 Mr. <Wheeler.= We are on a great trend here.

795 Ms. <Clarke.= --proposal is the Diesel Emissions Reduction
796 Act, otherwise known as DERA, which has been among the most cost
797 effective federal environmental programs, reducing harmful
798 emissions and improving air quality especially throughout
799 low-income communities and communities of color. In fact, DERA
800 has been so successful that I used the program as a model for
801 my recently introduced FREEZER Trucks Act which establishes a
802 grant program under EPA to electrify diesel-powered refrigeration

803 units on refrigerated delivery trucks.

804 Administrator, in the recent DERA Fourth Report to Congress,
805 EPA described this program as cost effective, targeted
806 disproportionately affected communities, and supported by the
807 American industry. Do you agree with this assessment?

808 Mr. <Wheeler.= Yes. We are very supportive of DERA and
809 we are continuing to use DERA grants to reduce diesel emissions.

810 Priority is being given to projects in areas of poor air quality
811 and also areas of highly concentrated diesel pollution--

812 Ms. <Clarke.= Very well.

813 Mr. <Wheeler.= --such as ports and distribution centers.

814 Ms. <Clarke.= Very well. Very well. Then why does your
815 budget propose to gut this vital program by asking for only ten
816 percent of the funds Congress has previously authorized?

817 Mr. <Wheeler.= We had to make a lot of hard decisions to
818 try to get a balanced budget and I think it is important, when
819 budgets are balanced--

820 Ms. <Clarke.= Got you.

821 Mr. <Wheeler.= --there are more funds available--

822 Ms. <Clarke.= Understood.

823 Mr. <Wheeler.= --for all programs.

824 Ms. <Clarke.= Understood. I simply don't understand the
825 reasoning. At a time when our country is looking for ways to
826 create jobs, protect the health of our communities, address
827 climate change, DERA stands out for me as a prime example of what
828 works.

829 With that, Mr. Chairman, I yield back the balance of my time.

830 Mr. <Tonko.= The gentlelady yields back. I will now
831 recognize the next member, but before so doing let me just make
832 a point of clarification. Administrator, you indicated or stated
833 that you proposed an MCL last week for PFAS. You proposed, we
834 believe, a regulatory determination.

835 Mr. <Wheeler.= Right, regulatory determination. Yes.

836 Mr. <Tonko.= But are still potentially years away from your
837 proposing an MCL.

838 Mr. <Wheeler.= Yes.

839 Mr. <Tonko.= With that--

840 Mr. <Wheeler.= In shorthand, but yes, you are correct.

841 Mr. <Tonko.= With that clarification--

842 Mr. <Wheeler.= We proposed a regulatory determination for
843 both substances.

844 Mr. <Tonko.= Thank you. With that clarification we will
845 now recognize Representative McKinley for 5 minutes, please.

846 Mr. <McKinley.= Thank you, Mr. Chairman.

847 And thank you for appearing one more time before us. It
848 is always a delight to interact with you on it. I want to also
849 thank you for your prompt response to my inquiries over the last
850 few weeks about the Paden City water problem they are having down
851 there with trichloroethylene gotten into their water system.
852 My question to you, and I think we are working together to try
853 to get some temporary equipment moved in there for air strippers
854 to do that and we want to continue to do that.

855 But I still have the question is that if you bathe in water
856 that is contaminated with TCE, can it be absorbed into your skin?
857 Do you have a problem with that over the next 120 days before
858 the equipment is, the final installation of the treatment
859 facility? Could you get back to me on that? I don't expect you
860 to have that answer offhand.

861 Mr. <Wheeler.= I would not want to give a scientific answer
862 like that offhand either.

863 Mr. <McKinley.= If you could--

864 Mr. <Wheeler.= We will get back to you.

865 Mr. <McKinley.= --I would appreciate that.

866 Mr. <Wheeler.= Thank you.

867 Mr. <McKinley.= I want to make sure that bathing and washing
868 and dishwasher that it is safe. The second question, I want to
869 follow up on Shimkus's question that was rather interesting that
870 the lead in the pipelines, you have been very active. The EPA
871 has been trying to force communities to remove the lead in the
872 service lines, but we still have a problem with lead in our
873 residential because up until 1986, you were still allowed to use
874 lead pipes in residential and apartments.

875 I am curious to see whether or not, and maybe again you would
876 get back to me, which is, do we have a registry or an estimate,
877 maybe just an estimate of the number of homes and apartments that
878 could still contain lead? Could you get back to me on that?

879 Mr. <Wheeler.= I don't believe we do. We do not regulate
880 the pipes inside the house.

881 Mr. <McKinley.= I know you don't regulate it. But there
882 ought to be someplace.

883 Mr. <Wheeler.= We wouldn't collect that information.

884 Mr. <McKinley.= If you don't have it, then maybe that is
885 a role for Congress that we need to have this to get a sense,
886 because the children are spending more time in their home than
887 they are in our schools and our daycare centers.

888 Mr. <Wheeler.= Sure.

889 Mr. <McKinley.= So I would like to understand a little bit
890 about the dynamics of what that is, so if you could get back to
891 me on that I would appreciate it.

892 Mr. <Wheeler.= Absolutely. And one of the aspects of our
893 proposed Lead and Copper Rule is if the homeowner replaces the
894 lead pipes in their home, the water system is required to also
895 replace them, which is why we are going to get even more--

896 Mr. <McKinley.= Let me move on, because I have two other
897 quick questions that I'm trying to get to. We have a refinery
898 in our district, Ergon. It is the last and only remaining
899 refinery we have in West Virginia. It is a small refinery, only
900 23,000 barrels a year that they create. And the Fourth Circuit,
901 the Fourth Circuit ruled in favor of them retaining an exemption
902 to be treated as a boutique refinery, but it was remanded back
903 to the EPA and you all denied that. You again turned them down
904 with it. Now they are appealing, they want to appeal that. But
905 I want to put this in perspective because, Mr. Wheeler, we have
906 six hospitals that have closed or are threatening to close. Three

907 have already closed, three more are in bankruptcies. We have
908 had seven coal companies go into bankruptcies.

909 Rural America is still hurting and here we have now the last
910 refinery which creates jobs in West Virginia and if we don't get
911 that exemption, I don't know that they have a long-term future.

912 So I am concerned, if especially since the Tenth Circuit has
913 now ruled that if you don't have an exemption you will never get
914 an exemption and they don't have the exemption right now.

915 So is it fair, and that is the operative, is it fair, do
916 you think, from the EPA that if you take that nationally, that
917 ruling, Ergon will never be able to be treated as a boutique small
918 refinery, keeping in mind they have 23,000 barrels versus Marathon
919 is one of the--at 300,000. This one-size-fits-all that you are
920 coming up with, I have a real problem with that. I am hoping
921 that somehow you don't, but let me hear from you. Are you open
922 to considering giving them an exemption?

923 Mr. <Wheeler.= Well, I believe their issue in the past on
924 receiving the exemption was the review by the Department of Energy
925 that they didn't meet the financial disparity test. That they
926 didn't--

927 Mr. <McKinley.= But the Fourth Circuit agreed with them.
928 You all didn't agree with them. So I am just asking because
929 I am running out time that you will rethink that again.

930 Mr. <Wheeler.= I would be happy to--

931 Mr. <McKinley.= Because this is critical to the economic
932 vibrancy of our area. When the hospitals and mines are closing

933 down, don't shut down our refinery.

934 The last question that I can just keep it open real quickly,
935 is there anything in this budget to help us maintain our aging
936 coal fleet, coal-fired power plant? We know the average age is
937 in the 45, close to 50 years old. Is there something in there
938 where we can address New Source Review, something that might be
939 able to sustain that so that we can maintain about a twenty-five
940 percent mix?

941 Mr. <Wheeler.= It is not necessarily in the budget, but
942 we are continuing to work on reforming the New Source Review
943 program. And I think in retrospect, looking back, I think you
944 can safely say that the NSR program is used, was weaponized to
945 go after certain industries, and I think that is a misuse of that
946 provision, because I think that any--that we should always
947 encourage any facility to add new pollution control equipment
948 and that disincentivized adding new equipment to those plants.

949 Mr. <McKinley.= Thank you. My time has expired. I yield
950 back.

951 Mr. <Tonko.= The gentleman yields back. The chair now
952 recognizes Representative Blunt Rochester for 5 minutes, please.

953 Ms. <Blunt Rochester.= Thank you, Mr. Chairman.

954 Mr. Wheeler, I want to thank you for being here today to
955 talk about these critically important EPA programs. I would like
956 to first focus on the Toxics Release Inventory, or TRI, something
957 that your budget documents refer to as "the Agency's premier
958 source of data on toxic chemicals release and management.'" I

959 couldn't agree more that the TRI database is an essential tool
960 especially for communities' right to know when there is a chemical
961 release. Because of this I am concerned that you have proposed
962 cutting the budget for TRI by a third.

963 Mr. Wheeler, why have you proposed to drastically cut the
964 funding for this important program?

965 Mr. <Wheeler.= First of all, I fully support the TRI
966 program. When I graduated from law school I started as a career
967 employee at the EPA in 1991 working on the TRI program. And so
968 we made some tough decisions, but we believe the amount of
969 resources we requested for the TRI program will continue the
970 program as it is today. I am a big supporter of the right to
971 know concept and the TRI program overall. Again, I worked in
972 that program for 4 years as a career employee back in the early
973 '90s, so I fully support the program.

974 Ms. <Blunt Rochester.= So you fully support it, but cut
975 it by a third and you are saying on the record that you believe
976 you have the resources--

977 Mr. <Wheeler.= If you look historically at the number of
978 resources that program has taken, we have gotten more efficient
979 and more effective on running the program. We used to have a
980 much larger staff in the '90s when it was a new program, but as
981 things have gotten more with the use of computer reporting, the
982 use of other groups using the data, we have gotten down.

983 Ms. <Blunt Rochester.= I just need to move on. I am working
984 on legislation to strengthen the TRI program by requiring an

985 annual public meeting to be held by covered facilities and
986 following any significant toxic releases. In Delaware we have
987 some serious situations where we had toxic chemicals released
988 and the surrounding communities felt in the dark about the
989 incident and its impact on their health. To me this is
990 unacceptable.

991 Mr. Wheeler, what is the EPA doing now to require TRI-covered
992 facilities to inform the communities on their fence line when
993 a release occurs?

994 Mr. <Wheeler.= Well, the TRI program doesn't require the
995 reporting to the local communities, but by reporting the
996 information publicly local community people have access to that
997 information and data. That was the first original right to know
998 legislation. It was passed in the mid-'80s. So people have
999 access, through the TRI program the neighboring communities have
1000 access to that data and they can access that on the EPA website
1001 and a number of other organizations.

1002 Ms. <Blunt Rochester.= So basically you are not doing
1003 anything. They have to go out and find it, is that--

1004 Mr. <Wheeler.= No, we are putting that information out to
1005 them, to the public. We are making it publicly available.

1006 Ms. <Blunt Rochester.= So I am especially concerned about
1007 the cuts because Congress just expanded the mandate of the TRI
1008 programs by requiring reporting of releases of PFAS chemicals.

1009 What is your plan to implement these new reporting requirements
1010 and can you explain why you are not asking for additional

1011 resources? I know you mentioned, on the one hand you mentioned
1012 the issue of efficiencies, but you also mentioned you had a
1013 thousand vacancies as well for your organization. I am just
1014 trying to--

1015 Mr. <Wheeler.= We hired a thousand people over the last
1016 year.

1017 Ms. <Blunt Rochester.= Right.

1018 Mr. <Wheeler.= But we are also losing people. We lost
1019 around 900 people last year and we brought on about a thousand
1020 people. And we are having that problem. We spent a lot of time
1021 and resources 2 years ago trying to hire new risk assessors in
1022 our Toxics program and we hired 30 new risk assessors in that
1023 program. At the same time that year, we lost 30 risk assessors.

1024 Ms. <Blunt Rochester.= So you, and you do have a plan to
1025 implement these new reporting requirements?

1026 Mr. <Wheeler.= We do. We are now looking to hire risk
1027 assessors in our Research Triangle Park facility. Because of
1028 the universities that are located in that area, we believe we
1029 can get recent college graduates who want to stay in that area.

1030 Ms. <Blunt Rochester.= I have 1 minute.

1031 Mr. <Wheeler.= So we have advertised for hiring people
1032 there.

1033 Ms. <Blunt Rochester.= And in this 1 minute I am just very
1034 quickly going to turn to another related requirement that was
1035 enacted the end of last year, which is the Research and
1036 Coordination Plan for Enhanced Response on Emerging Contaminants.

1037 I was the House sponsor of that piece of legislation which
1038 requires the Administrator to establish a working group to
1039 coordinate research and response on emerging contaminants. Can
1040 you tell us the status of the efforts to implement those
1041 requirements?

1042 Mr. <Wheeler.= If I could, I want to be mindful of the time,
1043 I would like to get back to you with written response on that
1044 if you don't mind.

1045 Ms. <Blunt Rochester.= That would be great. As you know,
1046 these requirements are important and I look forward to working
1047 with you on this--

1048 Mr. <Wheeler.= Thank you.

1049 Ms. <Blunt Rochester.= --to ensure that they are met.
1050 Thank you, Mr. Administrator, and I yield back.

1051 Mr. <Wheeler.= Thank you.

1052 Mr. <Tonko.= The gentlelady yields back. The chair now
1053 recognizes Representative Johnson for 5 minutes, please.

1054 Mr. <Johnson.= Thank you, Mr. Chairman and Ranking Member,
1055 for hosting this hearing. And, Mr. Wheeler, thank you for taking
1056 the time out to be with us here today to talk about your budget.

1057 Very important stuff. I know that my colleagues are planning
1058 on discussing a number of issues with you today, but I wanted
1059 to focus on something a little more specific that matters a great
1060 deal to the folks I represent along the Ohio River, and it is
1061 an issue that we have been working on on this Subcommittee on
1062 Energy and Commerce for quite a while to find the most responsible

1063 way forward.

1064 In your testimony, Mr. Wheeler, you mentioned the EPA's PFAS
1065 Action Plan. It has been unfortunate to see many of my colleagues
1066 in the last several months pushing a one-size-fits-all forced
1067 legislative mandate process to address this, when it is important,
1068 in my view, that the EPA should be afforded the flexibility to
1069 use the latest scientific advancements to create rules regarding
1070 PFAS and other environmental issues. So a few quick questions.

1071 Mr. Wheeler, your testimony mentions that the PFAS Action
1072 Plan is the first multimedia, multi program, national research
1073 management and risk communication plan to address this large class
1074 of chemicals. So for those that don't deal with this vernacular
1075 every day, can you--what does this mean?

1076 Mr. <Wheeler.= Not just those chemicals, but any chemicals.
1077 This is the first time the EPA has used all of our statutes and
1078 all of our program offices to work on one emerging chemical class
1079 like this. You go back in the history of the Agency, when there
1080 was a problem, asbestos and back in the '90s and the '80s, our
1081 Toxics Office worked on that. What we are doing here is taking
1082 a look, and I sat down with the heads of all of my program offices
1083 in developing this action plan and then the work of the action
1084 plan was developed by the career staff of the Agency. And I said,
1085 let's be creative, let's take a look at all of our statutes.
1086 What can we do to address this, what are the statutes? And that
1087 is why we are moving forward on seven or eight different statutes
1088 under the authority of the EPA to address this. We consider it

1089 a very important issue.

1090 But, you know, just to follow on something Mr. McKinley asked
1091 me about on TCE and his water for this water district, if we jump
1092 too far on PFAS, on the MCL for example, we are taking resources
1093 away from potentially other contaminants that local systems need
1094 to deal with. So we need to make sure that we are focusing on
1095 where the problems are on PFAS so that we don't just tell everybody
1096 only focus on PFAS and we end up having chemicals that are far
1097 worse for human exposure, environment that go unaddressed.

1098 Mr. <Johnson.= Yes, I am going to get to that in just a
1099 second, so I will let you expand on that. But is this, is what
1100 you just described, is this a unique collaboration between EPA's
1101 offices?

1102 Mr. <Wheeler.= Absolutely. And other countries are
1103 looking at what we are doing because we are doing groundbreaking
1104 work here on PFAS. We have the foremost scientists in the world
1105 working on this at EPA.

1106 Mr. <Johnson.= Okay. What prompted the EPA to move away
1107 from traditional approaches to this kind of approach to address
1108 PFAS?

1109 Mr. <Wheeler.= Well, I have believed that for quite some
1110 time that we need to--EPA historically has been siloed. We have
1111 had our air program, our water program, our waste program, our
1112 research program, and we have not done a good job over the years,
1113 over the last 50 years of talking between the programs. What
1114 I am trying to do is tear down the walls between the different

1115 silos and have a much more multimedia approach. We have a PFAS
1116 action team at the Agency with senior people that participate
1117 and I have somebody in my immediate office who chairs those
1118 meetings to make sure, and I believe they are on a weekly basis.

1119 They sit down and go over everything that happened over the last
1120 week and what everybody is working on so we can make sure that
1121 everybody stays on track and that we get these things done.

1122 Mr. <Johnson.= And now back to what you said a little bit
1123 about what is being done to ensure that this all hands on deck
1124 effort on PFAS isn't distracting from important work on other
1125 environmental hazards?

1126 Mr. <Wheeler.= That is, you know, on the regulatory
1127 determination for the two for the MCL under the Safe Drinking
1128 Water, we need to make sure that the science and the data is there
1129 before we move forward with the MCL. That is what Congress
1130 mandated in the 1996 Safe Drinking Water amendments. I actually
1131 worked on that legislation when I was a staffer in the Senate.

1132 And we are following the protocols and the procedures laid out
1133 in the Safe Drinking Water Act amendments from 1996 to ensure
1134 that the information is there, both the scientific data as well
1135 as occurrence data.

1136 Does it make sense to regulate a contaminant if it only
1137 appears in two percent of the water systems in the country?
1138 Congress required us to use a cost-benefit analysis in the '96
1139 amendments to the Safe Drinking Water Act because they wanted
1140 us to make sure that we were regulating the chemicals and requiring

1141 the monitoring if the chemicals were widely occurring in the water
1142 systems. So we are doing that research, we are doing that work,
1143 and we are getting that data from the water systems around the
1144 country.

1145 Mr. <Johnson.= Super. So thank you for your answers, and
1146 I yield back, Mr. Chairman.

1147 Mr. <Tonko.= The gentleman yields back. The chair now
1148 recognizes Representative Soto for 5 minutes, please.

1149 Mr. <Soto.= Thank you, Mr. Chairman. And I want to first
1150 start by correcting the record. We did pass a 2020 budget. Most
1151 people here voted for it. Not sure why there were statements
1152 made to the contrary.

1153 I do want to, for my constituents at home, go back to 2017
1154 to figure out why and how we got here. We saw a massive tax cut
1155 for the top one percent that led to a trillion-dollar deficit,
1156 and yet gross domestic product hasn't even cracked three percent
1157 over the last 3 years. So this is where we find ourselves, with
1158 a twenty-six percent cut to EPA. I do want to start with thank
1159 you, Administrator Wheeler, for the \$40 million WIFIA loan to
1160 Lake Toho. I know we did a joint press release on that, so we
1161 appreciate that. But I am concerned about the \$35 million cut
1162 to the program, so hopefully we will be able to work that out.

1163 In my district in St. Cloud, Florida, we had a water pollution
1164 issue that we have started working with your team about 10 days
1165 ago, and I have asked that EPA come in to test the water. There
1166 is a resin buildup in that area that has led to brown water in

1167 that area, so can we count on EPA to come in to test the water
1168 in St. Cloud, Florida, in District 4, since discussions have been
1169 ongoing for about 10 days now?

1170 Mr. <Wheeler.= Yes, and I will follow up with my Region
1171 4 regional administrator in Atlanta that oversees Florida and
1172 make sure that gets done.

1173 Mr. <Soto.= Thank you, really appreciate it. You know,
1174 my test is if I wouldn't have my family drink the water, I wouldn't
1175 expect our constituents. I am sure you feel the same way.

1176 I did want to also talk about a recent article that came
1177 out in the Miami Herald where because sea rise is going to be
1178 more than three feet by 2080, the Army Corps of Engineers had
1179 to brief the Miami-Dade Commission on a ten to thirteen-foot sea
1180 wall that will span from Miami-Dade County to Broward County and
1181 beyond by 2080, even in Palm Beach. So climate change is a really
1182 big deal for our state.

1183 Administrator Wheeler, can we count on you to support the
1184 CLEAN Future Act that we are working on diligently in this
1185 committee to get to carbon neutral by 2050? And if not, what
1186 is your plan to help us get there to save my state from going
1187 under water?

1188 Mr. <Wheeler.= I can't commit to supporting any legislation
1189 without going through the normal process with working through
1190 OMB. I will be happy to take a look at the legislation, provide
1191 some technical assistance and some comments on it, but I can't
1192 commit to supporting any particular legislative effort.

1193 Mr. <Soto.= And what can you commit to today as far as
1194 tackling climate change?

1195 Mr. <Wheeler.= Well, as I mentioned in my opening statement
1196 and the exchange with Chairman Tonko, we finalized our ACE rule
1197 last summer which would lead to a thirty-five percent reduction
1198 in CO2 from the electric power sector. We are moving forward
1199 on CAFE standards which will further reduce CO2 efforts. Methane
1200 regulations, our food waste will also reduce methane from
1201 landfills. So we are working on a number of different fronts,
1202 following the laws that Congress has passed to address climate
1203 change and reduce CO2 and other greenhouse gases.

1204 Mr. <Soto.= But what about with other sectors? Because
1205 for a while the United States has been working on transportation
1206 and utilities, but there is everything from manufacturing to
1207 agriculture and other areas of the economy where we need an
1208 economy-wide solution. What about in some of those other areas
1209 working with your colleagues?

1210 Mr. <Wheeler.= Well, again, we are implementing the
1211 legislation that Congress has passed, the statutes that we have,
1212 and I think what you are referring to and the bill that you
1213 mentioned a few minutes ago that addresses some of these issues
1214 is not law and we don't have the authority to do those things
1215 that you are mentioning right now.

1216 But I will point out and I have pointed this out when I go
1217 to the G7 Environment Ministers Meetings, we are reducing our
1218 CO2 greater than the other G7 members. Our CO2 emissions have

1219 fallen fourteen percent since 2005 in this country. We are on
1220 a good track in reducing our greenhouse gases compared to other
1221 industrialized countries.

1222 Mr. <Soto.= And as you can--

1223 Mr. <Wheeler.= Oh, you mentioned the tax bill. I will also
1224 point out though that the Opportunity Zones that is included in
1225 that tax bill have led to increased investment in those
1226 communities around the country. On the Brownfields Program, 108
1227 of our Brownfields grants last year went to our Opportunity Zones
1228 and that is hopefully going to spur further economic development
1229 in inner cities and rural communities around the country.

1230 Mr. <Soto.= And we appreciate that. But do you think that
1231 a trillion-dollar deficit is putting pressure to have these kind
1232 of proposed twenty-six percent cuts?

1233 Mr. <Wheeler.= Well, again, we are focusing on the core
1234 mission of the Agency, making sure that we continue to clean up
1235 the land, the air, and water, and we believe we can do that with
1236 the budget that we have requested.

1237 Mr. <Soto.= Okay. Well, we will be working in a bipartisan
1238 fashion to continue to crack the 2021 budget and we appreciate
1239 your comments today.

1240 Mr. <Wheeler.= Thank you.

1241 Mr. <Tonko.= The gentleman yields back. The chair now
1242 recognizes the now returned ranker of the full committee,
1243 Representative Walden, for 5 minutes, please.

1244 Mr. <Walden.= Thank you, Mr. Chair. And we have a hearing

1245 as you know going on upstairs on first responder issues and
1246 emergency communications, so some of us are bouncing back and
1247 forth.

1248 Mr. Administrator, thanks again for being here and the work
1249 that your professional team does at the EPA day in and day out.

1250 I know I have been frustrated in a district the size of mine,
1251 a lot of rural towns trying to comply with the regulations, and
1252 it seems like they get slapped down pretty hard if they have,
1253 let's say, an accidental leak.

1254 I had a community years ago that--very small, I mean we are
1255 talking a few hundred people, and they had a problem over a weekend
1256 and had a little sewage discharge. And the Department of
1257 Environmental Quality, the Oregon enforcer, just hammered them.

1258 It was really frustrating to them because meanwhile, at that
1259 time, Portland, the big city in Oregon, was dumping raw sewage
1260 into the Willamette River at multiple locations whenever it rained
1261 hard, and they had some agreement to do that apparently, and so
1262 it really creates this frustration.

1263 Do you see that around the country? Talk to me about big
1264 urban cities. Are they cleaning up this problem? I know
1265 Washington, D.C. used to discharge into the Potomac when it would
1266 rain here. Tell me what is going on in these big cities that
1267 are dumping sewage and other pollutants into bays and estuaries
1268 and rivers.

1269 Mr. <Wheeler.= We certainly do have a problem there and
1270 we are taking a harder look at that in communities around the

1271 country. In particular, San Francisco has been putting 1.5
1272 billion gallons of raw sewage into the Pacific Ocean.

1273 Mr. <Walden.= What? How much?

1274 Mr. <Wheeler.= 1.5 billion gallons. They have been--

1275 Mr. <Walden.= A year?

1276 Mr. <Wheeler.= Yes. They have--

1277 Mr. <Walden.= Raw sewage?

1278 Mr. <Wheeler.= Yes. They have been violating their permits
1279 and we are taking enforcement action there to try to get them
1280 into compliance.

1281 Mr. <Walden.= How long have they been doing that?

1282 Mr. <Wheeler.= They have been in violation of their permits,
1283 I believe, since the 1970s, so we are taking action. There in
1284 New York is, we are looking at that to see the--

1285 Mr. <Walden.= New York City?

1286 Mr. <Wheeler.= Yes, the early stages there. But we are
1287 looking at the larger cities around the country to take a look
1288 at what their permits allow and whether or not they are violating
1289 their permits.

1290 Mr. <Walden.= So my little towns get threatened with,
1291 literally, the mayor of this little town in Eastern Oregon told
1292 the Department of Environmental Quality, here, just take the keys,
1293 I mean based on what they were going to do to them. We got it
1294 worked out, but it is like, you know, you have a couple hundred
1295 people and they are going to shut them down and bankrupt them,
1296 and San Francisco is dumping a billion gallons of raw sewage into

1297 the Bay?

1298 Mr. <Wheeler.= 1.5 billion gallons.

1299 Mr. <Walden.= Sorry, a billion and a half gallons of raw
1300 sewage--what--

1301 Mr. <Wheeler.= Into the ocean.

1302 Mr. <Walden.= Well, yeah. Okay.

1303 Mr. <Wheeler.= Yes. And we are--and I would say the State
1304 of California is helping us with this effort. We are trying to
1305 impose a new permit on the City and the City has objected and
1306 appealed the new permit to our Environmental Appeals Board. So
1307 right now, they are still allowed to dump the sewage that they
1308 are dumping--

1309 Mr. <Walden.= Who lets them dump it?

1310 Mr. <Wheeler.= --while the new permit goes through the
1311 appeals process.

1312 Mr. <Walden.= Can they delay that process and game the
1313 system?

1314 Mr. <Wheeler.= Yes, and they are delaying that process.

1315 Mr. <Walden.= How do they do that?

1316 Mr. <Wheeler.= They have appealed it to our Environmental
1317 Appeals Board, so that process has to work through before we can
1318 impose tighter limits on their--

1319 Mr. <Walden.= What kind of timeline can that be?

1320 Mr. <Wheeler.= We are trying to speed that up. We actually
1321 have a proposal out that we are taking comments on reforming our
1322 Environmental Appeals Board, but sometimes those cases can take

1323 months to a year or 2.

1324 Mr. <Walden.= Wow. Huh. On your--Brownfields was a big
1325 issue in this committee in the last Congress. In fact, Mr. Tonko
1326 and I worked together on modernizing the Brownfields Program and
1327 getting more grants out to communities. You may have talked about
1328 this while I was up at the other hearing, but what kind of success
1329 are you achieving and your team at EPA on brownfields cleanup?

1330 Mr. <Wheeler.= We are achieving, I believe, a lot of success
1331 there. As I mentioned earlier, out of our 165 Brownfields grants
1332 last year, 108 went to Opportunity Zones. And what I did last
1333 year was actually ask all of my regional administrators to go
1334 out and hold press conferences in the communities that receive
1335 the grants instead of just putting out a press release announcing
1336 all the grants. Because when we highlight the fact that we are
1337 investing in these communities that will hopefully encourage
1338 other people to take a second look at these communities.

1339 Mr. <Walden.= Right.

1340 Mr. <Wheeler.= And invest in those communities as well.
1341 So, for example, when I personally went up to Harrisburg,
1342 Pennsylvania last year to announce a Brownfields grant there,
1343 we had three TV stations, local TV stations there covering it.

1344 Mr. <Walden.= Right.

1345 Mr. <Wheeler.= And I am hopeful that the local people in
1346 that community are going to look at that location and say, if
1347 the EPA is investing money to clean up this facility maybe we
1348 should take a look at that same neighborhood. So I think the

1349 Opportunity Zones has been an incredible success and hopefully
1350 will spur a lot more private sector investments in forgotten
1351 communities around the country.

1352 Mr. <Walden.= Right. I will tell you one of the biggest
1353 examples in my district is the Old Mill District in Bend, Oregon
1354 that was an old lumber mill. It was a brownfields site. They
1355 cleaned it up and now it is a thriving retail, recreation,
1356 incredible place right around the Deschutes River. Love to have
1357 you come out and see it sometime and we will get you out to Oregon.

1358 Mr. Chairman, thank you and I yield back.

1359 Mr. <Tonko.= The gentleman yields back. The chair now
1360 recognizes the gentlelady from Colorado, Representative DeGette,
1361 for 5 minutes, please.

1362 Ms. <DeGette.= Thank you so much, Mr. Chairman.

1363 Mr. Wheeler, in November, the EPA's Acting Inspector General
1364 wrote to Congress detailing, "open defiance" by your outgoing
1365 Chief of Staff with respect to an audit and an investigation.

1366 This committee, together with the Oversight and Reform and
1367 Science Committees, requested that you instruct the EPA staff
1368 to cooperate with the Inspector General. And so, what I would
1369 like to ask you today is if you can confirm that you expect all
1370 EPA staff including leadership and political appointees to
1371 cooperate with the Inspector General, including being available
1372 for interviews, and that you in particular in EPA's leadership
1373 will not obstruct these important investigations, yes or no?

1374 Mr. <Wheeler.= Yes.

1375 Ms. <DeGette.= Thank you very much.

1376 Mr. <Wheeler.= And we did not obstruct that investigation.

1377 Ms. <DeGette.= Okay, great. I am glad--

1378 Mr. <Wheeler.= My chief of staff met with the Inspector
1379 General over 30 times.

1380 Ms. <DeGette.= Excuse me, sir. I am glad you have that
1381 expectation. Now, I and other members of this committee have
1382 requested information about your proposal to overhaul the
1383 Environmental Appeals Board which reviews the EPA's permitting
1384 decisions. The EPA has provided some information and a briefing
1385 with political appointees, but still we have not received all
1386 of the information that we requested.

1387 And so what I want to ask you is, do you commit to making
1388 judges and career staff from the Environmental Appeals Board
1389 available to brief the committee staff and to providing us with
1390 any input received from outside stakeholders on the proposal
1391 before it was announced publicly?

1392 Mr. <Wheeler.= I will certainly make the people in our
1393 Office of General Counsel available to brief the committee's
1394 staff.

1395 Ms. <DeGette.= So that is a yes? Yes? That is, answer
1396 is yes with respect to the General Counsel?

1397 Mr. <Wheeler.= Yes.

1398 Ms. <DeGette.= Okay.

1399 Mr. <Wheeler.= For the General Counsel's Office, yes.

1400 Ms. <DeGette.= What about the judges and career staff?

1401 Mr. <Wheeler.= I am not sure that is appropriate at this
1402 point.

1403 Ms. <DeGette.= Why not?

1404 Mr. <Wheeler.= They are not part of the review of the Board
1405 itself, but.

1406 Ms. <DeGette.= Wait. Wait. But if they are the ones that
1407 have the information, why wouldn't you make them available?

1408 Mr. <Wheeler.= We would be happy to take a look at the
1409 information you are requesting.

1410 Ms. <DeGette.= Okay. But if you have career staff that
1411 have information that is relevant, would you make them available?

1412 Mr. <Wheeler.= If the information is relevant, we would
1413 make the information available, yes.

1414 Ms. <DeGette.= And you would make the staff available?
1415 It is not a trick question. If you have a career staffer that
1416 has information that is relevant to a request that we have made,
1417 would you make them available?

1418 Mr. <Wheeler.= If it is relevant, yes. I don't like--

1419 Ms. <DeGette.= Okay, but--okay.

1420 Mr. <Wheeler.= --to commit career staff to have to come
1421 before Congress for briefings or hearings without making sure
1422 that they are comfortable doing so.

1423 Ms. <DeGette.= Okay, so if someone has--

1424 Mr. <Wheeler.= But the people in the General Counsel's
1425 Office--

1426 Ms. <DeGette.= Wait, wait, wait.

1427 Mr. <Wheeler.= --who have written the proposal, yes.

1428 Ms. <DeGette.= Wait. Hi, I have the questioning.

1429 Mr. <Wheeler.= All right.

1430 Ms. <DeGette.= If someone has information, is there a
1431 distinction in your mind as to whether they are a political
1432 appointee or a career staff? I mean why would you make one person
1433 available and not someone else?

1434 Mr. <Wheeler.= Well, I am not sure that they have the
1435 relevant information that you are looking for.

1436 Ms. <DeGette.= Okay, but if they do.

1437 Mr. <Wheeler.= If it is relevant, yes, we will make it
1438 available.

1439 Ms. <DeGette.= Thank you very much. Now Mr. Shimkus and
1440 I actually worked together with a bunch of the members of this
1441 subcommittee on reform of the Toxic Substances Control Act, but,
1442 unfortunately, the EPA doesn't appear to be carrying out several
1443 of its critical responsibilities under TSCA.

1444 And so, I want to ask you if there is any documentation
1445 associated with any of the following EPA responsibilities, and
1446 if you can answer yes or no that would help. And after today's
1447 hearing where formal policy procedure or other documentation does
1448 exist, we would like to have it. And if it doesn't exist, if
1449 you could let us know in writing why it doesn't. So here is the
1450 first question.

1451 Mr. Wheeler, the EPA recently allowed new chemicals for which
1452 it had identified risk to workers to enter into the market without

1453 restrictions. Does the EPA have a document that provides the
1454 basis for the Agency's belief that this comports with the law,
1455 yes or no?

1456 Mr. <Wheeler.= I would have to know which chemical you are
1457 referring to.

1458 Ms. <DeGette.= Okay. If we get you that information will
1459 you supplement your answer?

1460 Mr. <Wheeler.= Yes.

1461 Ms. <DeGette.= Thank you. EPA is mandated to consider all
1462 known exposures to a chemical in its reviews of existing
1463 chemicals, but it has asserted discretion to ignore some
1464 exposures. Does EPA have a procedure for deciding how to exercise
1465 the purported discretion?

1466 Mr. <Wheeler.= Yes. We do have a procedure--

1467 Ms. <DeGette.= Okay.

1468 Mr. <Wheeler.= --that we are following.

1469 Ms. <DeGette.= Good. Can we get a copy of that from you
1470 in your supplement?

1471 Mr. <Wheeler.= Yes.

1472 Ms. <DeGette.= Thank you. Now I understand the EPA has
1473 not required any testing of chemicals to inform the reviews of
1474 potential risk. Is there a policy at EPA for determining when
1475 to require such testing?

1476 Mr. <Wheeler.= I will have to get back to you on the answer
1477 for that question.

1478 Ms. <DeGette.= Okay, thank you. I have some other

1479 questions but I am out of time, and so if you will work with me,
1480 we are going to submit those to you in writing and if you could
1481 answer them I would appreciate it.

1482 Mr. <Wheeler.= Absolutely.

1483 Ms. <DeGette.= Thank you so much.

1484 Mr. <Tonko.= The gentlelady yields back. The chair now
1485 recognizes the gentlelady from Washington State, Representative
1486 Rodgers, for 5 minutes, please.

1487 Mrs. <McMorris Rodgers.= Thank you, Mr. Chairman. And I
1488 want to thank Administrator Wheeler for joining us today. I
1489 appreciate your focus on getting results.

1490 Mr. <Wheeler.= Thank you.

1491 Mrs. <McMorris Rodgers.= We must have clean air and clean
1492 water for the citizens of this country, and it seems to me that
1493 you are really focused on how we are going to get results. You
1494 have been particularly helpful in working with me on issues that
1495 have a direct impact on Eastern Washington, and to that end I
1496 am pleased to see the biomass carbon neutrality rule that was
1497 sent to OMB this week. This is long overdue and I just am pleased
1498 to see you pressing forward on finalizing it.

1499 We have also discussed the erroneous water quality standards
1500 that the Obama EPA imposed on Washington State that are not even
1501 attainable, are not measurable. They were imposed at the tail
1502 end of the Obama administration after the Inslee administration
1503 at the state level had spent years putting together water quality
1504 standards for the people of Washington State, bringing

1505 stakeholders together and hammering out some of the strictest
1506 standards in the country for Washington State, and yet the Obama
1507 administration said no and imposed their own standards right at
1508 the tail end. For me, representing Eastern Washington,
1509 Spokane, the City of Spokane spent hundreds of millions of dollars
1510 to clean up the Spokane River. Local businesses spent billions
1511 on state-of-the-art technology to eliminate their footprint on
1512 local rivers and lakes. The former mayor of Spokane, David
1513 Condon, was even brought to the White House by President Obama
1514 to praise him on this water storage system, the innovation, and
1515 the state-of-the-art technology that we were putting in place
1516 in the city of Spokane.

1517 Yet, despite this investment and praise, these efforts still
1518 do not meet the unattainable and immeasurable standards imposed
1519 by the Obama EPA. We cannot get the permits that we need. I
1520 find it odd that the Inslee administration now, Governor Inslee,
1521 is now defending the stringent federal standard it previously
1522 opposed and is now opposing their own standard that they had
1523 negotiated.

1524 He is also devoting state resources to a study meant to
1525 advocate for removing the four lower Snake River dams to save
1526 the salmon. His Department of Ecology has a heavy hand on Eastern
1527 Washington, enforcing these unattainable water quality standards
1528 and threatening our dams, while at the same time, seemingly
1529 ignoring the City of Seattle and King County dumping millions
1530 of gallons of raw sewage into Puget Sound. This certainly

1531 doesn't meet any test of the water that I would want my children
1532 to be drinking. In addition, there is now fentanyl and heroin
1533 in the water, needles in Puget Sound. For too long, Governor
1534 Inslee and others have turned a blind eye to the issues in their
1535 own backyard and instead pointed the finger to Eastern Washington
1536 as the source of all their problems and how we save salmon.

1537 In fact, in 2017, after a spill that resulted in 250 million
1538 gallons of raw sewage spilling into the Sound, the Seattle Times
1539 noted "not a single person from an environmental group or the
1540 public turned out to testify or demand action or even take notice
1541 of one of the largest local public infrastructure failures in
1542 decades.'" And this has been going on for decades, ladies and
1543 gentlemen. But yet, nearly every week we have to defend our dams
1544 from those who refuse to look at the science and look at the facts.

1545 The Governor's focus on these unattainable water quality
1546 standards and efforts to tear out the Snake River dams are a
1547 distraction from solutions that will actually make a difference.

1548 Solutions like cleaning up Puget Sound. We could save the
1549 salmon, save the orcas, and save the four lower Snake River dams
1550 if we cleaned up Puget Sound. The number one salmon for the orcas
1551 are in Puget Sound.

1552 So, Administrator Wheeler, I appreciate the current EPA's
1553 effort under your leadership to revise these standards. I heard
1554 from my colleague from Oregon about the City of San Francisco,
1555 1.5 billion gallons of raw sewage--City of New York. I would
1556 like to ask, have you looked at the City of Seattle? Have you

1557 looked at Puget Sound? What tools do you have to hold the City
1558 of Seattle and King County accountable?

1559 Mr. <Wheeler.= First of all, Congresswoman, I have to agree
1560 with you. It is hard to keep track of your Governor's positions
1561 on these issues, but we will be happy to look into the City of
1562 Seattle and Puget Sound. We have approved the State's criteria
1563 that the Governor originally accepted and we have approved that
1564 and we think it is based on sound, scientific judgment. But we
1565 would be happy to take a closer look at the Puget Sound and any
1566 pollution going into that body.

1567 Mrs. <McMorris Rodgers.= I would greatly appreciate it,
1568 and my time has expired. I yield back.

1569 Mr. <Tonko.= The gentlelady yields back. The chair now
1570 recognizes the chair of the full committee, Representative Frank
1571 Pallone, for 5 minutes, please.

1572 The <Chairman.= Thank you, Mr. Chairman.

1573 Administrator Wheeler, I wanted to focus on the Superfund
1574 program. About half of New Jerseyans live within three miles
1575 of a Superfund site and any delay in cleaning up those sites has
1576 real consequences in terms of toxic exposure, health effects,
1577 economic concerns, et cetera. Now I have reintroduced the
1578 Superfund Polluter Pays Act to reinstate the Superfund tax and
1579 ensure resources are available for lifesaving cleanups, and
1580 reinstatement of this tax was supported in previous EPA budgets
1581 under the last administration.

1582 Let me just start out, would your budget reinstate the

1583 Superfund tax to provide resources for cleanup, and I would just
1584 ask yes or no.

1585 Mr. <Wheeler.= No, it does not.

1586 The <Chairman.= Okay. I have also authored legislation
1587 with my colleague, Mr. Tonko, here, to use the Superfund program
1588 to incentivize climate adaptation and avoid the creation of new
1589 Superfund sites with every hurricane or flood or whatever, and
1590 that legislation, which is part of the CLEAN Future Act, builds
1591 on existing authority in the Superfund law to require financial
1592 assurances from polluting industries. So, Mr. Wheeler, your
1593 administration has now decided not to require financial
1594 assurances for the hard rock mining industry, the electric power
1595 industry, the petroleum and coal products manufacturing industry,
1596 and the chemical manufacturing industry. That is my
1597 understanding. Is that correct that you don't?

1598 Mr. <Wheeler.= That is. But when we work on the Superfund
1599 sites we work to make sure that they can withstand stronger storms
1600 and we have a very good track record there.

1601 The <Chairman.= Okay.

1602 Mr. <Wheeler.= When you look at the last few hurricanes,
1603 we make sure that the Superfund sites are buttoned up before the
1604 hurricane hits and we go back to test those sites.

1605 The <Chairman.= Well, I mean I appreciate that.

1606 Mr. <Wheeler.= And we have a very good track record there.

1607 The <Chairman.= I appreciate that, but I do think you should
1608 be requiring the financial assurances, because these are the four

1609 most polluting industries that are responsible for the greatest
1610 risk and the greatest cost of the Superfund program. And I just
1611 think the Superfund program is at a critical juncture. According
1612 to the AP, only six Superfund cleanups were completed last year,
1613 the fewest in more than 30 years. Would that be accurate?

1614 Mr. <Wheeler.= That is not accurate at all.

1615 The <Chairman.= Well, tell me what it is though, quickly.

1616 Mr. <Wheeler.= Sure. We cleaned up 27, delisted 27 sites
1617 from the Superfund National Priority List last year. The author
1618 of that article does not understand the Superfund program. That
1619 is, the 6 number is referring to construction completions. And
1620 a perfect example is when we install a pump and treat equipment
1621 at a Superfund site that counts as a construction complete. We
1622 then have to pump and treat for years.

1623 The <Chairman.= All right. But I mean, I think that part
1624 of the problem here--

1625 Mr. <Wheeler.= And so the important number is the 27 that
1626 would delist it. We delisted more sites last year than any year
1627 since 2001. The author of the article did not understand--

1628 The <Chairman.= Well, I think part of the problem though
1629 is, and I want to move on because I only have 2 minutes left.

1630 Mr. <Wheeler.= Sure.

1631 The <Chairman.= But I think part of the discrepancy here
1632 is that for these ones beyond the six, a lot of that work was
1633 done or completed under previous administrations.

1634 Mr. <Wheeler.= We have speeded up cleanup at all the sites.

1635 The <Chairman.= Okay.

1636 Mr. <Wheeler.= We have cleaned up more Superfund sites in
1637 the last 3 years than the Obama administration did in their first
1638 term.

1639 The <Chairman.= Well, I guess my concern is, I think there
1640 is a real risk that you are declaring some of these sites ready
1641 for reuse by lowering the cleanup standards and relying--

1642 Mr. <Wheeler.= We are not. We have not lowered any of the
1643 cleanup standards. We are using the RODs that were put in place
1644 by previous administrations.

1645 The <Chairman.= Okay.

1646 Mr. <Wheeler.= What we are doing is refocusing resources
1647 and getting the private sector to step up more to get the sites
1648 cleaned up at a faster rate.

1649 The <Chairman.= All right. Well, let me issue--I mean you
1650 wouldn't disagree that you have the largest backlog of unfunded
1651 cleanup projects, right?

1652 Mr. <Wheeler.= We have 34 sites currently on the backlog
1653 list. None of those are posing current public health risk.

1654 The <Chairman.= But I mean there are currently 35--

1655 Mr. <Wheeler.= We are doing important investigative work
1656 at all 34 sites. What we are doing is taking some of the funds
1657 and putting them on sites where there is a human health risk.

1658 A perfect example is the Colorado Smelter site--

1659 The <Chairman.= All right, but I have to--I only have a
1660 minute left. I mean, my understanding, there are currently 35

1661 cleanup projects at 34 sites that are shovel ready and are waiting
1662 for funding. I mean you wouldn't deny that we have a lot of these
1663 where we need more funding to proceed, right?

1664 Mr. <Wheeler.= What the agency used to do is put a little
1665 bit of money at all the sites to say that they are doing work
1666 without accomplishing anything at those sites. What we are doing
1667 is prioritizing our funding at the sites that pose a human risk.

1668 The <Chairman.= But why are you proposing a cut of--

1669 Mr. <Wheeler.= We are getting those sites cleaned up.

1670 The <Chairman.= Why are you proposing a cut of \$112 million?

1671 I mean you could clearly use more money and instead you are
1672 cutting back?

1673 Mr. <Wheeler.= We are also increasing our Superfund
1674 enforcement and we are getting more dollars from the--

1675 The <Chairman.= No, but I mean let me just finish with this
1676 because we are almost out of time.

1677 Mr. <Wheeler.= --private sector to clean up these sites.

1678 The <Chairman.= Why are you proposing a cut of more than
1679 \$112 million when you seem to imply that we could use more money?

1680 Why?

1681 Mr. <Wheeler.= We are getting more money for the Superfund
1682 program through our enforcement actions. The Superfund program
1683 today is in the best shape it has been in--

1684 The <Chairman.= So you are saying because you are getting
1685 more money from the private sector--

1686 Mr. <Wheeler.= --a decade.

1687 The <Chairman.= --you don't need the general funds?

1688 Mr. <Wheeler.= What I am saying is we are getting the work
1689 done at the sites that need the work done.

1690 The <Chairman.= Well, I appreciate that. But it just
1691 doesn't make sense to cut back on the money that we could spend
1692 to clean up these sites, I mean.

1693 Mr. <Wheeler.= Again, a perfect example is the Colorado
1694 Smelter. It was going to take 12 to 14 years to get that site
1695 cleaned up.

1696 The <Chairman.= I understand. But I just feel that it is
1697 a mistake.

1698 Mr. <Wheeler.= We are prioritizing to get it cleaned up
1699 in 2 to 4 years and this is a site where children play in dirt--

1700 The <Chairman.= Well, I am not even getting an answer. I
1701 am just trying to find out--

1702 Mr. <Wheeler.= --laced with lead.

1703 The <Chairman.= It seems like you are saying the reason
1704 that you have cut back on the funding is because you are getting
1705 more from the private sector. But we still have a lot of sites
1706 that need to be cleaned up, so that doesn't make any sense. But
1707 in any case--

1708 Mr. <Wheeler.= And we are getting those sites cleaned up.
1709 We have gotten more sites cleaned up again under this
1710 administration--

1711 The <Chairman.= Well, I don't agree.

1712 Mr. <Wheeler.= --than under the previous administration.

1713 The <Chairman.= I don't agree, Mr. Chairman, but whatever.

1714 My time--

1715 Mr. <Wheeler.= The numbers are there. The facts are there,
1716 sir.

1717 The <Chairman.= All right, well, my time is up.

1718 Mr. <Wheeler.= They are indisputable.

1719 Mr. <Tonko.= The gentleman yields back. The chair now
1720 recognizes Representative Flores for 5 minutes, please.

1721 Mr. <Flores.= So, thank you, Mr. Chairman.

1722 And, Administrator Wheeler, thank you for being here today
1723 and I appreciate the hard work that you and your team are doing
1724 to help clean up our environment at an accelerated rate. I also
1725 want to thank you and your team for getting back to us so quickly
1726 on the impact of revised EPA arsenic standards on rural water
1727 systems in Central Texas.

1728 Moving on to my questions, as you know states often implement
1729 multiple national air quality standards with multiple deadlines
1730 and overlapping requirements. This consumes considerable staff
1731 resources. Over the past two Congresses, we have built hearing
1732 records of testimony into evidence highlighting the uncoordinated
1733 state burdens when examining the Clean Air Act. Would you agree
1734 that it is beneficial to bring more order to the process of
1735 national air quality standards reporting especially given the
1736 recent success in reducing air emissions through record low levels
1737 in most areas of the country?

1738 Mr. <Wheeler.= Absolutely. And we have moved 35

1739 nonattainment areas to attainment over the last 3 years, so we
1740 are working with communities all around the country that have
1741 impaired air quality in making sure that the air quality is
1742 improved.

1743 Mr. <Flores.= Okay, thank you. And in the last hearing
1744 that we had with EPA, you had committed to being creative in our
1745 approach to the Renewable Fuel Standard after 2022. As you know,
1746 Republican Leader Shimkus and I worked on legislation in the last
1747 Congress called the 21st Century Transportation Fuels Act to
1748 pursue a high-octane standard for liquid fuel passenger vehicles
1749 that would create a system that maximizes fuel efficiency and
1750 reduces emissions.

1751 Has the EPA started looking at the Renewable Fuel Standard
1752 post 2022?

1753 Mr. <Wheeler.= Well, with the recent court decisions, we
1754 are kind of busy trying to implement the recent decisions that
1755 we have in the current program. But we, of course, are looking,
1756 you know, forward as far as out to what the RFS program will look
1757 like post 2022, but we are just in the very beginning stages of
1758 that.

1759 Mr. <Flores.= Okay. If the Agency didn't take any action,
1760 what do you think the demand would be for biofuels? Would it
1761 be higher or lower or the same, or is it possible to tell at this
1762 point?

1763 Mr. <Wheeler.= I think it would be approximately the same.
1764 I think you would end up having, because of the need for ethanol

1765 for octane, I think you would end up with probably around eight
1766 and a half to nine percent ethanol being used for octane purposes.

1767 Mr. <Flores.= That would be roughly 15 billion gallons or
1768 so annually?

1769 Mr. <Wheeler.= It depends, because we are using less and
1770 less fuel as the cars get more fuel efficient.

1771 Mr. <Flores.= Oh, true. Good point.

1772 Continuing the discussion about the RFS, while you noted
1773 in our last hearing that you don't think the EPA has statutory
1774 authority to implement a nationwide octane standard like the one
1775 that Representative Shimkus and I are proposing, I do believe
1776 that you have enough flexibility to improve some of the RFS design
1777 flaws. One of these are improvements being made to, or one of
1778 these is small refinery exemptions.

1779 While SREs don't directly solve the problems with the RFS,
1780 they still provide small refineries with a buffer from overly
1781 burdensome cost. I have read in recent reports, however, that
1782 the EPA may be planning to reduce the amount of exemptions that
1783 they will issue for small refineries. In light of this news,
1784 REN prices spiked unexpectedly. Can you comment on these reports
1785 and if there are any plans to reduce the amount of SREs that are
1786 issued?

1787 Mr. <Wheeler.= Well, I am always fearful of making very
1788 many comments and causing fluctuations in the REN price market,
1789 but we have the Tenth Circuit decision and we are currently
1790 reviewing that along with attorneys from the Department of Justice

1791 on how to best implement that decision and that, of course, goes
1792 to the heart of the small refinery exemption program.

1793 Mr. <Flores.= Sure.

1794 Mr. <Wheeler.= So we have no announcements at this point,
1795 but we are closely looking at that decision as well as the other
1796 court decisions that we have received. This has been a very
1797 litigated area of the RFS and the Clean Air program and we want
1798 to make sure that we comply with the Tenth Circuit opinion.

1799 Mr. <Flores.= Okay. In that regard, given all the
1800 difficulty that the EPA has had implementing the 2007 law or the
1801 changes made in 2007 and all the court cases, wouldn't it be
1802 appropriate for Congress to take statutory action to fix this
1803 once and for all? To fix the RFS once and for all.

1804 Mr. <Wheeler.= I am not at liberty to ask for legislation
1805 on behalf of the administration.

1806 Mr. <Flores.= I am just asking your personal opinion, I
1807 am not asking you to ask.

1808 Mr. <Wheeler.= I will be happy to give my personal opinion
1809 after I have left office.

1810 Mr. <Flores.= Okay. That is cool enough. If REN prices
1811 continue to rise, what is the effect on jobs and energy
1812 infrastructure in Texas?

1813 Mr. <Wheeler.= The REN prices are very complicated. There
1814 are some economists who believe that the REN prices are passed
1815 on to the consumer. It depends a lot on the company itself whether
1816 or not they are fully integrated, whether or not they just produce

1817 and sell refined products into the marketplace. So the REN prices
1818 themselves have a very different impact based on the corporate
1819 structure of the refineries where the obligation currently is
1820 for the RENs, so it is really varies greatly from company to
1821 company on the impact of the REN prices.

1822 Mr. <Flores.= Okay. Thank you for your testimony. I yield
1823 back the balance of my time.

1824 Mr. <Tonko.= The gentleman yields back. The chair now
1825 recognizes the Representative from California, Representative
1826 Matsui, for 5 minutes, please.

1827 Ms. <Matsui.= Thank you very much, Mr. Chairman, and
1828 welcome, Administrator Wheeler.

1829 Administrator Wheeler, last year before this committee you
1830 admitted that you had already decided to revoke California's Clean
1831 Air Act waiver while the SAFE vehicles rulemaking was ongoing.

1832 Now here we are 1 year later and we have seen you do exactly
1833 that in a so-called One National Program Rule finalized last
1834 September. So I think we all know that whatever the Part 2 rule
1835 will look like, when and if it is finalized, the fix is in and
1836 it is against public health, against a safe climate, against
1837 consumers, and for big oil companies and their profits.

1838 Mr. Wheeler, I have a series of questions for you about Part
1839 2 of the rule that is pending before the Office of Management
1840 and Budget. All I need is a yes or no. Is it true that the draft
1841 final rule at EPA weakens the stringency of the standards to
1842 require a 1.5 percent improvement per year, yes or no?

1843 Mr. <Wheeler.= I am sorry. Can you repeat that?

1844 Ms. <Matsui.= The final draft rule, is it true that the
1845 final draft rule at EPA weakens the stringency of the standards
1846 to require a 1.5 percent improvement per year?

1847 Mr. <Wheeler.= First of all, I cannot answer as to what
1848 is in the final rulemaking when we are in the middle of the
1849 rulemaking process.

1850 Ms. <Matsui.= So you don't know right now. Is it true that
1851 the draft final rule at OMB has approximately 111 sections marked
1852 "text forthcoming?"

1853 Mr. <Wheeler.= I am not sure how many. I know that we have
1854 submitted our text to OMB and I believe NHTSA has submitted most
1855 of theirs. I am not sure what is outstanding.

1856 Ms. <Matsui.= Okay. So is it true that the cost-benefit
1857 analysis at OMB shows that the rule would have a net cost to
1858 consumers?

1859 Mr. <Wheeler.= I don't believe that is the case, no.

1860 Ms. <Matsui.= You don't believe that is the case. In fact,
1861 isn't it true that the draft final rule at OMB is projected to
1862 have a net negative benefit of 41.3 billion for EPA's greenhouse
1863 gas standards? A net negative benefit.

1864 Mr. <Wheeler.= The rule is currently under interagency
1865 review and it is subject to change, so I can't comment on what
1866 the final rule is going to look like.

1867 Ms. <Matsui.= Okay, so it is ongoing. Okay. Is it true
1868 that the analysis in the draft final rule demonstrates that the

1869 rule would measurably contribute to more premature deaths from
1870 lung and respiratory illnesses?

1871 Mr. <Wheeler.= Again, it is under interagency review so
1872 any final--

1873 Ms. <Matsui.= Okay. Major rulemaking such as this one must
1874 include a regulatory impact analysis which analyzes the legal,
1875 scientific, health, and economic impacts of a major rule. Is
1876 it true that no draft final regulatory impact analysis has been
1877 submitted to OMB?

1878 Mr. <Wheeler.= I am not sure if it has been submitted yet
1879 or not, but again this is under interagency review.

1880 Ms. <Matsui.= Okay. Is it true that no draft final
1881 environmental impact statement has been submitted to OMB?

1882 Mr. <Wheeler.= Again, I can't comment on what is currently
1883 in interagency review.

1884 Ms. <Matsui.= Okay. As you know, fourteen states have
1885 adopted advanced clean car standards and rely on them to meet
1886 the National Ambient Air Quality Standards. Have you consulted
1887 with each of these states as part of this rulemaking? Yes or
1888 no?

1889 Mr. <Wheeler.= We have solicited comments from all the
1890 states.

1891 Ms. <Matsui.= All the states?

1892 Mr. <Wheeler.= And we have received comments, I believe,
1893 from all fourteen of those states.

1894 Ms. <Matsui.= All of them, hmm. Okay.

1895 Mr. <Wheeler.= I believe so. We have certainly received
1896 comments from a lot of states on this.

1897 Ms. <Matsui.= So you consulted with each of these states
1898 before unilaterally ending negotiations over the standards?

1899 Mr. <Wheeler.= Before--

1900 Ms. <Matsui.= Before unilaterally ending negotiations over
1901 the standards.

1902 Mr. <Wheeler.= Well, we are trying to negotiate with the
1903 State of California and they did not counter.

1904 Ms. <Matsui.= There is a difference of opinion there.

1905 Mr. <Wheeler.= I know there is, but--there is a difference
1906 of opinion, but there can't be a difference of the facts. And
1907 they did not submit.

1908 Ms. <Matsui.= Well. Well, they have been pretty factual
1909 in what they have been doing, so.

1910 Mr. <Wheeler.= As have we.

1911 Ms. <Matsui.= So, but will you commit to submit all records
1912 of EPA's and NHTSA's meetings and consultations with states on
1913 development of this rulemaking?

1914 Mr. <Wheeler.= I believe all those meetings are a part of
1915 the docket.

1916 Ms. <Matsui.= They are.

1917 Mr. <Wheeler.= Public docket.

1918 Ms. <Matsui.= Okay.

1919 Mr. <Wheeler.= If they occurred during the notice and
1920 comment section of the rulemaking, yes.

1921 Ms. <Matsui.= Okay. I want to bring up another topic still
1922 related to air quality, an essential component of EPA's mission
1923 to protect human health and the environment.

1924 Mr. Wheeler, last fall you sent a letter to the California
1925 Air Resources Board, CARB, concerning the backlog of state
1926 implementation plans for maintaining compliance with the National
1927 Ambient Air Quality Standards, or NAAQS, pending at EPA. Your
1928 letter, rather than striking a productive tone, threatened the
1929 harshest of penalties, that is sanctioning Federal Highway
1930 dollars that our state counts on, if California as you put it
1931 "failed to comply."

1932 However, the letter failed to acknowledge the years of
1933 collaboration between CARB and the EPA, nor did it give any
1934 indication as to whether this noncompliance had been addressed
1935 at the regional level before being elevated to warrant a letter
1936 directly from the administrator. I want to know, and all I want
1937 is a yes or no, did EPA headquarters work with Region 9 staff
1938 to understand the full range of facts about California's backlog
1939 SIPs before sending this letter?

1940 Mr. <Wheeler.= We conferred with some people in Region 9,
1941 but the important thing is that since we sent the letter, the
1942 State of California has withdrawn 43 of the SIPs that were
1943 outstanding. The problem that we had was the SIPs that California
1944 had submitted to EPA could not be approved.

1945 Ms. <Matsui.= Why not?

1946 Mr. <Wheeler.= Because they did not show attainment. You

1947 have to show attainment in order to have them approved.

1948 Ms. <Matsui.= No, I think the complication is what you did.

1949 Mr. <Wheeler.= And so, when we pointed out to California,
1950 we got exactly the results we needed from that letter. California
1951 has now withdrawn 43 of the State Implementation Plans that did
1952 not show attainment and they are now working to submit plans that
1953 do.

1954 Ms. <Matsui.= Well, it seems to me that--

1955 Mr. <Wheeler.= And it is important that we treat California
1956 the same as we treated the other 49 states.

1957 Ms. <Matsui.= --there was--well, exactly right, and I don't
1958 believe you have in many cases. So I really feel that there has
1959 to be more conversation regarding this, because there was a sense
1960 of as we were looking at it to do this harsh penalty, so therefore
1961 forcing California to do what you wanted it to do.

1962 Mr. <Wheeler.= Some of their outdated SIPs dated back to
1963 1990.

1964 Ms. <Matsui.= Well.

1965 Mr. <Wheeler.= And they did not show attainment. We also
1966 sent letters to twenty-five other states.

1967 Ms. <Matsui.= Did they attain? Did they respond
1968 appropriately?

1969 Mr. <Wheeler.= The other states?

1970 Ms. <Matsui.= Yes.

1971 Mr. <Wheeler.= We have had a dialogue with the other states
1972 and they, I believe, have removed some of their SIPs that didn't

1973 show attainment.

1974 Ms. <Matsui.= Well, okay. Well.

1975 Mr. <Wheeler.= But we had a backlog of 300 SIPs, half of
1976 which were from the State of California.

1977 Ms. <Matsui.= Well, we have had more of a discussion with
1978 you than anyone else. Anyway, my time has expired. Thank you.

1979 Mr. <Tonko.= The gentlelady yields back. The chair now
1980 recognizes the gentleman from South Carolina, Mr. Duncan.
1981 Representative Duncan, you have 5 minutes, please.

1982 Mr. <Duncan.= Thank you, Mr. Chairman. Administrator
1983 Wheeler, thanks for being here. Under the Trump administration
1984 and your leadership at EPA, the United States has become the number
1985 one oil and gas producer in the world while simultaneously
1986 improving air quality and water quality. I want to thank
1987 you and the EPA for the EPA's proposed rule regarding Section
1988 401 of the Clean Water Act. As you are aware, Section 401 of
1989 the Clean Water Act gives states the responsibility to assess
1990 potential environmental impacts from infrastructure projects
1991 that affect navigable waters within their borders. States are
1992 responsible for certifying projects being permitted by the EPA,
1993 the Army Corps of Engineers, or FERC. Under the law, these
1994 projects must also be approved or denied by state regulators
1995 within 1 year. Recently, states have weaponized the
1996 certification process to deny permits for pipelines, hydropower
1997 projects, and export terminals for ideological and political
1998 reasons that have nothing to do with water quality. In my view,

1999 these states like New York are abusing their responsibilities
2000 under the Clean Water Act and it is time for EPA to step up to
2001 rein them in. Further, litigating every permit and blocking
2002 pipelines and clean energy projects like hydropower is having
2003 an adverse environmental impact as harming consumers.

2004 Instead of capitalizing on the American energy renaissance
2005 and clean burning natural gas from places like the Bakken or the
2006 Marcellus Shale regions, without the necessary transportation
2007 infrastructure they are forced to import LNG from our adversaries.

2008 New England just had a Russian LNG tanker provide LNG to New
2009 England states. That is just hard for me to believe when we have
2010 so much natural gas there that states are bringing it natural
2011 gas from Russia.

2012 Thanks to natural gas, the United States is leading the world
2013 in emissions reduction, but consumers in some parts of the country
2014 don't have access because they can't get a pipeline built.
2015 Ironically, New York is the number one consumer of heating oil
2016 which is dirtier and more expensive than natural gas, but yet
2017 they are blocking natural gas pipelines because of climate change
2018 politics. We don't give enough credit to the environmental
2019 progress the United States has made as a result of the American
2020 energy renaissance. Despite the efforts by activists to block
2021 any fossil fuel related infrastructure project, the net
2022 environmental, economic, and geopolitical benefits are
2023 undisputed.

2024 So, Administrator Wheeler, can you update us on the status

2025 of the EPA's Section 401 rulemaking?

2026 Mr. <Wheeler.= Certainly. We intend to finalize the 401
2027 rulemaking by this summer. And I would point out, I completely
2028 agree with you, I think the decision by the Governor of New York
2029 to veto the pipeline to take LNG, natural gas from the shale play
2030 from Pennsylvania and Ohio up to New England was the worst
2031 environmental decision by an elected official in the last 2 years.

2032 It is subjecting New England to imports of LNG from Russia.

2033 You are right. There is a Russian LNG tanker in the Boston
2034 Harbor. It was a year and a half ago. If you just--his reason
2035 for vetoing that pipeline was because of climate change. If you
2036 take a look at the carbon footprint of transporting the natural
2037 gas from the United States' Pennsylvania, Ohio up to New England
2038 is far less than the carbon footprint of transporting natural
2039 gas from Russia across the ocean in tankers. It was a horrible
2040 environmental decision and it is was done under the guise of using
2041 401 under the Clean Water Act when there is no impact on clean
2042 water and it was done because of climate change.

2043 Mr. <Duncan.= Yes, exactly. Congress has many reasons to
2044 support domestic energy production and the necessary
2045 infrastructure. Why is it so important to get the interpretation
2046 of the rule back to Congress' original intent and provide much
2047 needed clarity so it is not weaponized to block projects? So
2048 how does this rulemaking simultaneously promote environmental
2049 stewardships while also providing the legal certainty to energy
2050 infrastructure projects?

2051 Mr. <Wheeler.= What we do is we require, and under the Clean
2052 Water Act and this provision actually predates the EPA, states
2053 are supposed to only use the 401 veto for clean water reasons
2054 and they are supposed to do it in a timely fashion. So we are
2055 putting a timeline where you have to, a governor would have to
2056 veto a project within a year or less depending on the project
2057 and it has to be because of water quality issues, not because
2058 of climate change or unrelated water issues.

2059 Mr. <Duncan.= Well, I appreciate you being here.

2060 Congressman Flores talked about renewable fuel standards
2061 and I appreciate him doing that. I have long been an advocate
2062 of reforming RFS and I think we need to dramatically increase
2063 our domestic production. Get on my soapbox for just a second,
2064 we see the environmental left stop these type of pipeline projects
2065 that we talked about earlier. There is one being stopped right
2066 now, the Atlantic Coast pipeline, because it crosses under the
2067 Appalachian Trail, even though there is 50-something other
2068 pipelines crossing under that trail, because they don't like
2069 natural gas because it is fossil fuel. Well, let me tell you,
2070 natural gas has helped reduce the carbon footprint; good
2071 stewardship starts right there in this country. Well, thank you
2072 for the work you are doing, and with that Mr. Chairman, I will
2073 yield back.

2074 Mr. <Tonko.= The gentleman yields back. The chair now
2075 recognizes the gentlelady from Michigan, Representative Dingell,
2076 for 5 minutes, please.

2077 Mrs. <Dingell.= Thank you, Chairman Tonko. Thanks for
2078 having this hearing. And, Mr. Wheeler, it is great to have you
2079 here. I know how much you love these hearings. But I have got
2080 to, one, express concern that you are rolling back, have either
2081 weakened or rolled back 95 important environmental regulations,
2082 some of the ones that are very close to my heart like NEPA, Clean
2083 Water, Endangered Species, and I just have to state that worries
2084 me.

2085 But I am going to ask you questions about two of my favorite
2086 subjects. I can't decide which to go with first. Maybe I will
2087 start with CAFÉ since my colleague, Ms. Matsui, already brought
2088 it up. I am worried. The autos are focused on deploying new
2089 technologies, in fact, more new technologies in the next 10 years
2090 versus the prior 100 years, including electrification, connected
2091 car and autonomous vehicles, requiring billions of dollars in
2092 new investments. We need those new investments to be made here
2093 in the United States and to do that we need certainty around these
2094 standards that support these new technologies and recognize that
2095 customers are demanding better and better fuel economy and more
2096 electric vehicle choices.

2097 It is unfortunate that it is taking--that the administration
2098 has decided to choose a very uncertain path on fuel economy that
2099 is going to take years of litigation as you well know. This
2100 year-long process has resulted in nothing more so far than
2101 litigation. It is reportedly, you say you can't comment on it,
2102 a half-baked at best, supposed final rule at OMB, and the real

2103 thing we have no fuel economy standards in place for 2022.

2104 The last time you testified you agreed with me that chaos
2105 would ensue if we ended up having two different standards for
2106 the entire country. So, Ambassador Wheeler, is this still your
2107 position, yes or no?

2108 Mr. <Wheeler.= I think it is still better to have one
2109 national standard nationwide, and I hope that when California
2110 sees our final regulation when it comes out that they will agree
2111 that it is the best approach for the entire country and they drop
2112 their separate approach.

2113 Mrs. <Dingell.= Well.

2114 Mr. <Wheeler.= That would be my preferred option.

2115 Mrs. <Dingell.= Well, I hope that EPA sees the wisdom and
2116 we can come to compromise with California because you are not
2117 that far off. And I have sat with both sides and someone from
2118 the other department was very surprised at how much I understood
2119 and how close the two of you were. So it is not bad for you to
2120 compromise either.

2121 Do you think that you are going to be able to meet the legal
2122 deadline by the end of March to be able to promulgate the '22
2123 standards?

2124 Mr. <Wheeler.= That is certainly our goal.

2125 Mrs. <Dingell.= Okay. I am now going to go to my other
2126 favorite subject, PFAS.

2127 Mr. <Wheeler.= Hmm.

2128 Mrs. <Dingell.= We have talked a little about what you did

2129 last Friday, which quite frankly isn't a lot. It is a small step.

2130 It is a very small step. It is not getting us to--

2131 Mr. <Wheeler.= A very important step in setting an MCL.

2132 Mrs. <Dingell.= Well, with a great deal of respect, I have
2133 been promised since I got to Congress that that standard was coming
2134 any second. When do you think that we are really going to get
2135 a final drinking water standard for PFOA and PFAS to protect the
2136 American people and our environment?

2137 Mr. <Wheeler.= Well, first of all, I want to ensure the
2138 American people that we are protecting them today. We have the
2139 health advisory of 70 parts per trillion.

2140 Mrs. <Dingell.= It is a guideline. It isn't a requirement
2141 and Governor Snyder's environmental task force, when he, a
2142 Republican governor, said it is probably not stringent enough.
2143 So people don't--we don't have a drinking standard.

2144 Mr. <Wheeler.= We have taken twelve enforcement actions
2145 around the country and we have assisted state and local
2146 governments with over two dozen enforcement actions. We are
2147 doing the foremost science on this and the states that are making
2148 comments like that are using our science.

2149 Mrs. <Dingell.= Well, if they are using that science--

2150 Mr. <Wheeler.= We are protecting the American--I don't want
2151 the American public to be concerned that their drinking water
2152 is not safe. We are also doing innovative--

2153 Mrs. <Dingell.= Well, the American people should be in some
2154 communities. Michigan is testing. We have more sites than any

2155 other states because after Flint we test. How many communities
2156 aren't testing because they don't know the danger is there?

2157 Mr. <Wheeler.= And we are doing innovative GIS mapping
2158 looking at the facilities that produce the chemicals, also the
2159 facilities where the chemicals were used. We are laying that
2160 on top of the water tables and then we are proactively reaching
2161 out to communities to say you might need to test because of the
2162 circumstances in your community. We are doing that, but we have
2163 the 70 parts per trillion health advisory and that informs us
2164 on the enforcement action.

2165 Mrs. <Dingell.= It is a health advisory. It is not a
2166 standard and not stringent enough. And I am just going to--well,
2167 I am out of time already. But I am going to make one point.

2168 Mr. <Wheeler.= I would be happy to meet with you to discuss
2169 this issue.

2170 Mrs. <Dingell.= I would love to. But I will give you one
2171 more. You talk about how you are giving people warnings and
2172 whatever, we can't eat fish in the Huron River. That fish was
2173 caught a year before it was tested. Once it was tested, we had
2174 to put out a do not fish advisory a year later. I mean we have
2175 a crisis in this country. Water is polluted, is poison in many
2176 communities that don't know it. We need a drinking water
2177 standard. Thank you.

2178 But I do think--never mind.

2179 Mr. <Wheeler.= I would be happy to meet with you to discuss
2180 this further. I understand your passion.

2181 Mr. <McNerney.= [Presiding.] The gentlelady yields back.
2182 The chair now recognizes the gentleman from Missouri, Mr. Long,
2183 for 5 minutes.

2184 Mr. <Long.= Thank you, Mr. Chairman. And I think the
2185 gentlelady is right. There is a lot of polluted water in the
2186 United States where people don't know it. But if they are dumping
2187 a billion and a half gallons of raw sewage in the Pacific Ocean
2188 in San Francisco, do the people from San Francisco not know that?

2189 Mr. <Wheeler.= They didn't. And, in fact, there was
2190 inspections in 2015 and 2016, and I am still trying to find out
2191 why that information was not made public. It should have been
2192 put on our public database at the time and it was not. And we
2193 are taking efforts to make sure that whenever there is violations
2194 like that that the public is informed. But there were inspections
2195 completed by the EPA in both 2015 and 2016 that saw that there
2196 was a problem and for whatever reason that information was not
2197 made public at that time.

2198 Mr. <Long.= And how much sewage is going in the Pacific
2199 Ocean annually in San Francisco, raw sewage?

2200 Mr. <Wheeler.= I believe it is 1.5 billion gallons of raw
2201 sewage.

2202 Mr. <Long.= I knew that. I just wanted to hear it again.
2203 Puget Sound, Seattle, do people know how much raw sewage is being
2204 dumped into Puget Sound and what is being done about that?

2205 Mr. <Wheeler.= That has just been brought to my attention.
2206 We are going to look into that. I don't have the numbers for

2207 that.

2208 Mr. <Long.= So if you are not aware of it, I wonder if the
2209 people in that area are aware of it.

2210 Mr. <Wheeler.= I don't know.

2211 Mr. <Long.= I can see how some small towns, small areas
2212 and things might not know if their local lake is polluted or raises
2213 above a certain level, but it is just mind boggling to me to think
2214 that one and a half billion gallons of raw sewage has been dumped
2215 from San Francisco into the Pacific Ocean. And when you find
2216 out on Puget Sound, the numbers, I would like to have that too.

2217 Mr. <Wheeler.= I will be happy to share that with you once
2218 we have that.

2219 Mr. <Long.= You highlight in your testimony the Trump
2220 administration's commitment to reworking the Waters of the United
2221 States rule, and the rule finalized last month in conjunction
2222 with the Army Corps of Engineers. Meeting with constituents in
2223 my district, a significant concern under the previous
2224 administration was the Waters of the U.S. rule and how it made
2225 their lives more difficult, particularly in rural areas with lakes
2226 and ponds and everything was declared a navigable river like the
2227 water running off your roof.

2228 Can you explain to those constituents of mine in my district
2229 how the new rule provides clarity on who has jurisdiction over
2230 what water sources?

2231 Mr. <Wheeler.= Absolutely. We define both what is and what
2232 is not a navigable water under our new rule, and that should help

2233 clear up a lot of the information and a lot of the misinformation
2234 and confusion over the previous standards. And what we did was
2235 we follow the Supreme Court cases and the Clean Water Act to
2236 finalize the regulation that should allow homeowners, property
2237 owners to be able to stand on their property and be able to tell
2238 what the definition means for themselves.

2239 Mr. <Long.= And still be able to thrive.

2240 Mr. <Wheeler.= Yes.

2241 Mr. <Long.= Switching gears here, recently the Agency
2242 released a proposal to update the Lead and Copper Rule for the
2243 first time in almost 30 years. In fact, if you did it after many
2244 commenters have lowered their--commenters lowered their
2245 expectations for action after the Obama administration failed
2246 to propose any sort of revision, what did you succeed, or why
2247 did you succeed where others failed?

2248 Mr. <Wheeler.= We focused a lot of time and resources at
2249 trying to come up with a Lead and Copper Rule that moves the ball
2250 forward and gets the lead/copper pipe problem solved for the
2251 Americans. We put a lot of time and resources on it. We were
2252 very creative in our approach. The require of the mapping of
2253 all the lead surface lines is going to help inform people all
2254 over the country whether or not they have a problem.

2255 If private citizens replace their lead pipes, the
2256 requirement is then that the waterworks facilities have to do
2257 so as well to the pipes leading up to their houses. It makes
2258 no sense if somebody replaces their lead pipes if they are still

2259 getting lead water from their city water supply. And the fact
2260 that we will require for the first time ever testing of the water
2261 systems in schools and daycare centers. Children have the most
2262 health impacts from lead in drinking water. There is a direct
2263 correlation between lead and IQ points in development of
2264 particularly young children, toddlers. So it is very important
2265 that we test schools and daycare centers. That has never been
2266 proposed before by the federal government.

2267 Mr. <Long.= Now how are they going to afford to pay--I mean
2268 there are some very small water systems with a few hundred people
2269 or less on a water system. How in the world are they going to
2270 be able to comply, which they need to comply, everyone agrees
2271 with.

2272 Mr. <Wheeler.= Sure. We also are trying to make available
2273 grants and opportunities for school districts and water companies
2274 around the country. We are trying to use all of our resources.

2275 We have, in addition to the WIFIA loan program and the State
2276 Revolving Loan Funds, we also have new programs under the AWIA
2277 and the WIIN Acts that provide additional funding for
2278 disadvantaged communities. And we are trying to access all of
2279 those different funding opportunities to help people comply with
2280 this. Of course, it is not final yet. Hopefully it will be
2281 finalized later this summer. And we will also do a lot of
2282 education to water systems as far as what their resources are
2283 to help them with these new requirements.

2284 Mr. <Long.= And can you tell me how many gallons of raw

2285 sewage is being dumped by San Francisco into the Pacific Ocean
2286 every year?

2287 Mr. <Wheeler.= 1.5 billion gallons.

2288 Mr. <Long.= Thank you. I yield back.

2289 Mr. <McNerney.= The gentleman yields back. The chair now
2290 recognizes himself for 5 minutes for questioning.

2291 Administrator Wheeler, this budget for the fourth year in
2292 a row you have attempted to eliminate funding for the San Francisco
2293 Bay Delta geographic program. You have also attempted to zero
2294 the Puget Sound program. The Bay Delta program was funded for
2295 fiscal year 2020 for \$5.9 million, provides oversight for projects
2296 aimed at protecting and restoring water quality and ecological
2297 health throughout the Bay Delta watershed, including the approval
2298 of state policies and established water quality stamp.

2299 This program has been successful, federal-state partnership
2300 focusing on solving complex issues facing the Bay Delta. In your
2301 budget proposal, you noted that the EPA will encourage the State
2302 of California and local entities to continue making progress in
2303 restoring the San Francisco Bay from within core water programs.

2304 Can you please describe how you expect us to make substantive
2305 progress in restoring and protecting the San Francisco Bay Delta
2306 when our federal partner decides they no longer feel obliged to
2307 participate in the process?

2308 Mr. <Wheeler.= First of all, we will fully implement all
2309 the funding given to us by Congress for all the programs. We
2310 did have to make some hard decisions on some of these voluntary

2311 programs, particularly the voluntary geographic programs, but
2312 we have other resources at the Agency's disposal. We have the
2313 State Revolving Loan Funds which currently has \$80 billion
2314 circulating through the system.

2315 Mr. <McNerney.= So you might say that the budget is not
2316 that meaningful.

2317 Mr. <Wheeler.= I am sorry. The budget is not what?

2318 Mr. <McNerney.= The budget proposal is not that meaningful.

2319 Mr. <Wheeler.= No, it is very meaningful, because what we
2320 are focusing--

2321 Mr. <McNerney.= It is meaningful in what your feelings about
2322 protecting the environment are.

2323 Mr. <Wheeler.= We have other tools to address the issues
2324 that you are raising. We have other tools at EPA, other water
2325 programs. We have the WIFIA program for--we have given some WIFIA
2326 loans to several different communities in California as well as
2327 Washington State. We also have the State Revolving Loan Fund
2328 program--

2329 Mr. <McNerney.= Okay, thanks. Moving on.

2330 Mr. <Wheeler.= --the AWIA programs, the WIIN grant
2331 programs. So we have a lot of other resources that we can use--

2332 Mr. <McNerney.= Okay.

2333 Mr. <Wheeler.= --to address the same issues.

2334 Mr. <McNerney.= Well, that isn't really what my question
2335 was.

2336 Mr. <Wheeler.= We don't have to--

2337 Mr. <McNerney.= And thank you for that comment though.

2338 Mr. <Wheeler.= Sure.

2339 Mr. <McNerney.= Heavy-duty diesel trucks are associated
2340 with a number of significant adverse health effects such as
2341 respiratory and cardiovascular damage. That is why I have been
2342 pleased to see efforts to address this issue take center stage
2343 with this committee whether it be brought through the CLEAN Future
2344 Act or standalone bills like Ms. Matsui's that would reauthorize
2345 the DERA.

2346 Given the serious public health implications associated with
2347 the truck traffic in my district, we are right in the middle of
2348 I-5 and Highway 99, I was heartened by a report issued by the
2349 Manufacturers of Emission Controls Association at the beginning
2350 of the month, MECA, includes that the emission of nitrogen oxides
2351 and greenhouse gases can be simultaneously reduced, including
2352 bringing NOx emissions down to 0.02 grams per brake horsepower
2353 hour. To quote from the report, "it has now been widely
2354 demonstrated that the traditional trade-offs between CO2 and NOx
2355 emissions at the tailpipe has been overcome and reductions of
2356 both pollutants can be achieved simultaneously through the use
2357 of commercially available technology and, critically, MECA
2358 demonstrates that it is economically feasible to do so.''

2359 Are you familiar with this report?

2360 Mr. <Wheeler.= Yes. And we are working on our Cleaner
2361 Trucks Initiative to reduce NOx from the heavy-duty diesel trucks.

2362 This is an effort that is not required under law. It is not

2363 required under a consent order. We are moving forward on that
2364 and we will be--we put out an advance notice of proposed rulemaking
2365 like 2 months ago, January.

2366 Mr. <McNerney.= Well, thanks though. And what you are
2367 saying is that you will give serious--

2368 Mr. <Wheeler.= We are moving forward on this, yes.

2369 Mr. <McNerney.= Are you committed to giving serious
2370 consideration to settling health protective standards that drive
2371 the cost effective technologies that can reduce both NOx and CO2?

2372 Mr. <Wheeler.= Absolutely. I announced that a year and
2373 a half ago and we put out an advance notice of proposed rulemaking.

2374 By 2025, heavy-duty trucks will be the largest single source
2375 of NOx from the mobile sources. And so we want to make sure that
2376 we are providing tools to make sure that communities that are
2377 in nonattainment can get to attainment, because it will be a huge
2378 problem in a number of locations by the middle of the next decade,
2379 or actually this decade.

2380 Mr. <McNerney.= Okay. When you before the committee last
2381 year, you told me, quote, that you believe that "resources we
2382 have requested through the budget will allow us to return the
2383 Agency to its core mission of protecting public health and the
2384 environment, and we have a number of different tools that we can
2385 help the state and local governments to meet that standard."

2386 That was your quote.

2387 Mr. <Wheeler.= Yes.

2388 Mr. <McNerney.= I would like to think that I have a good

2389 understanding of these numbers, but I cannot make what this budget
2390 adds up. Can you explain to me how cutting the EPA's budget by
2391 a staggering 26 percent can actually help you in achieving your
2392 mission as opposed to endangering public health and safety?

2393 Mr. <Wheeler.= Well, I think our actions speak louder than
2394 the numbers. We have accomplished a lot just over the last year.

2395 We have deleted 27 Superfund sites from the National Priority
2396 List, all six criteria air pollutants are down, water protection
2397 is up. So we are on the street, our Enforcement Office. We have
2398 taken more, all of our criminal enforcement numbers have increased
2399 for the first time since 2011. So, we have the environmental
2400 cop on the beat; we are reducing air pollution; we are improving
2401 water quality; we are cleaning up Superfund sites; we are
2402 accomplishing it.

2403 Mr. <McNerney.= Administrator, I appreciate your answer.

2404 I don't necessarily agree with your numbers. Thank you and I
2405 yield back.

2406 Now the chairman recognizes Mr. Carter, the gentleman from
2407 Georgia, for 5 minutes for questioning.

2408 Mr. <Carter.= Thank you very much, Mr. Chairman. I
2409 appreciate this opportunity. Thank you, Administrator Wheeler,
2410 for being here and thank you and your staff. You have been very
2411 helpful to our district and to me personally in a number of
2412 different issues and I want to thank you publicly for that.

2413 I wanted to start with an issue that we have in the state
2414 of Georgia, ethylene oxide. Ethylene oxide as you know is used

2415 for the sterilization of medical devices and we have had some
2416 problems. We have had two facilities in the state of Georgia
2417 in the Atlanta area that have been impacted by this. One of them
2418 I know has closed down. The other one may have closed down as
2419 well, I am not sure. But I know one of them has.

2420 I just wanted to ask you, first of all, can you explain to
2421 me what is going on there, because there has been a lot of hysteria,
2422 if you will, particularly from those members of the community
2423 next to those plants about what is going on.

2424 Mr. <Wheeler.= Yes. And it is a very complicated
2425 situation. There is concern over ethylene oxide. The concern
2426 though, and I just need to constantly remind people, it is a cancer
2427 risk over 70 years. So if you are inhaling it for 24/7, 24 hours
2428 a day, seven days a week, the cancer risk is over 70 years. So
2429 I don't want--there has been some news articles and some press
2430 trying to make it a much more hysterical issue than it is, but
2431 it is a very serious issue which is why we are moving forward
2432 on two separate rulemakings to try to address it and try to reduce
2433 the emissions from these facilities.

2434 We have the miscellaneous organic--

2435 Mr. <Carter.= Can you tell me where you are at with those
2436 two?

2437 Mr. <Wheeler.= I am sorry?

2438 Mr. <Carter.= Can you tell me where you are at with that
2439 rulemaking?

2440 Mr. <Wheeler.= Sure. So we proposed the first rulemaking

2441 on December 19th for miscellaneous organic chemical manufacturers
2442 and that was proposed this past December and we did advance notice
2443 of proposed rulemaking for sterilizers. These are companies that
2444 use these chemicals. That was an advance notice of proposed
2445 rulemaking we issued on December 5th. We went with advance notice
2446 because we don't have enough data yet to do a proposed rule, but
2447 we are moving forward on two separate rulemaking efforts to try
2448 to address the emissions from these facilities.

2449 But it is also important to note that ethylene oxide is a
2450 very important sterilizer for hospital equipment. The FDA has
2451 told us that if we quit producing ethylene oxide, people will
2452 die in operating rooms within weeks.

2453 Mr. <Carter.= Okay, two things real quick, okay, because
2454 I have a lot here.

2455 Mr. <Wheeler.= Sure.

2456 Mr. <Carter.= The first thing is, are you doing anything
2457 to work with the communities, communicate to them that, you know,
2458 that there is not an immediate risk here?

2459 Mr. <Wheeler.= Yes, we are. And we have done monitoring.
2460 We have done air quality monitoring at several of the facilities.
2461 We are looking at their data. We have a problem with not just
2462 the actual emissions, but also fugitive emissions. We have
2463 required several of the facilities to install new pollution
2464 control equipment to reduce their emissions.

2465 Mr. <Carter.= Okay.

2466 Mr. <Wheeler.= We are trying to make sure that the

2467 communities who live around these facilities are protected.

2468 Mr. <Carter.= All right. To the other point that you just
2469 made about perhaps a shortage of medical devices, of sterilized
2470 medical devices, are you addressing that as well?

2471 Mr. <Wheeler.= Well, the FDA is involved in that. But we
2472 need to make sure that the ethylene oxide where the chemical is
2473 being used does not create unsafe conditions for the people
2474 surrounding the facilities or the workers in the facilities.
2475 We want to make sure both. But we are also told by FDA that it
2476 is required in order to sterilize equipment. That there are no
2477 alternatives to ethylene oxide for some of the sterilization for
2478 medical devices and surgical equipment.

2479 Mr. <Carter.= Okay. All right, real quick, let's go over
2480 a couple of other things. Tier 4 engines, thank you for your
2481 help, particularly for the bar pilots, particularly for the
2482 lobstermen. That has been a tremendous help to us. We need help
2483 with it in our ag community, and I know you and I spoke about
2484 this last week and you indicated that there was more information
2485 that you needed from the ag community. Are we getting that to
2486 you? Tell me what you need because this is a big problem in the
2487 ag community as well.

2488 Mr. <Wheeler.= Sure. We are reaching out to the ag
2489 community to request information. Part of the problem is that
2490 the users of the equipment don't necessarily have the data, it
2491 is the manufacturers, so we are trying to reach out to the
2492 manufacturers to get more data from them on the engines

2493 themselves.

2494 Mr. <Carter.= Okay. All right, real quick, Superfund
2495 cleanups. You are familiar with the sites that we have in the
2496 first congressional district and you are also familiar with Terry
2497 Creek in Glynn County and Brunswick, which we did not agree with
2498 the ruling of EPA in that because you have suggested that it be
2499 enclosed and not removed. We would rather see it removed.
2500 Therefore, I am working on some legislation, the Community Cleanup
2501 Act, and I would like to request technical assistance with the
2502 legislation from you and your staff to help me with that because
2503 this is very important.

2504 Now keep in mind, this is a prime retail, or a prime area
2505 in this community that could be used for a number of different
2506 purposes, but the community is simply concerned about using it,
2507 for instance, to build a school on when you are only enclosing
2508 it and not removing the material.

2509 Mr. <Wheeler.= We would be happy to discuss that site.
2510 I would be happy to discuss further with you that site and we
2511 would be happy to provide technical assistance on your
2512 legislation.

2513 Mr. <Carter.= Okay, one last thing and that is I thank you.
2514 I know that the biomass review is at OMB now. Thank you for
2515 your work in that. I hope that you will continue to push that
2516 so that we can get that done. And I know again that it is at
2517 OMB now that you have gotten it to that point, but we need to
2518 continue on with it as well, so thank you for your assistance

2519 and I yield back.

2520 Mr. <Tonko.= The gentleman yields back. The chair now
2521 recognizes the gentlelady from Illinois, Representative
2522 Schakowsky, for 5 minutes, please.

2523 Ms. <Schakowsky.= Thank you, Mr. Chairman. And thank you,
2524 Mr. Administrator.

2525 It can never be said too many times that our environment
2526 is in crisis and communities across the country are feeling the
2527 effect. This budget, it seems, ignores that reality and will
2528 not provide the help that our communities need. I am a proud
2529 supporter, by the way, of the EPA Workers' Bill of Rights and
2530 everything in this budget seems to fly in the face of it. I have
2531 worked with them many times in the city of Chicago where we have
2532 all kinds of issues including the high lake level. For example,
2533 when Congress passed the Lautenberg Act to reform the Toxic
2534 Substance Control Act, or TSCA, there was the hope that a strong
2535 regulatory program could restore consumer confidence and help
2536 the public trust that the products that we buy are safe. Clearly,
2537 that has not happened. It has been almost 4 years since the bill
2538 was enacted, but we have not seen, really, any action on dangerous
2539 chemicals.

2540 Your budget proposal would cut funding from the toxic risk
2541 review and prevention by more than 20 percent, including
2542 completely eliminating the Endocrine Disruptor program, the
2543 Pollution Prevention program, and the Lead Risk Reduction
2544 program. So, Mr. Wheeler, how can you justify those cuts?

2545 Mr. <Wheeler.= First of all, we are still requesting money,
2546 in fact, increased funding on lead reduction programs. And on
2547 endocrine disruptors, our Research Office still does research
2548 on endocrine disruptors. So while we are phasing out one part
2549 of what we do on endocrine disruptors, we are still doing research.

2550 Ms. <Schakowsky.= What part are you getting rid of and why?

2551 Mr. <Wheeler.= Well, the important part that we are still
2552 continuing is our research in our Office of Research and
2553 Development. On the TSCA side--

2554 Ms. <Schakowsky.= I really would like an answer. What are
2555 you cutting from when you eliminate the Endocrine Disruptor
2556 program?

2557 Mr. <Wheeler.= I will have to get back to you on that part.

2558 Ms. <Schakowsky.= Okay.

2559 Mr. <Wheeler.= I was focused on the research that we are
2560 doing which is very important.

2561 Ms. <Schakowsky.= I hear you.

2562 Mr. <Wheeler.= As far as TSCA is concerned, we are in line
2563 on the Existing Chemicals program. We have released seven of
2564 the ten risk assessments for public comment. The other three
2565 will be forthcoming and we intend to meet our deadline of this
2566 summer for the first ten chemicals, and we proposed the second
2567 twenty chemicals under the law and we have met every deadline
2568 that the new TSCA law has put out for us.

2569 On the New Chemicals that is taking a little bit longer to
2570 try to transition the New Chemicals program before to current,

2571 but our backlog is down significantly. In fact, on the New
2572 Chemicals side, last year we had a backlog of a hundred and
2573 thirty-one that we had for more than 90 days, now we are down
2574 to thirty-two more than 90 days. So we have significantly
2575 addressed our backlog in the New Chemicals program, but we are
2576 in line to meet all the deadlines on the Existing Chemicals
2577 program.

2578 Ms. <Schakowsky.= Mr. Wheeler, I was part of the Consumer
2579 Product Protection Enhancement--Improvement Act which dealt with
2580 the issue of phthalates, which were made to soften baby toys and
2581 because babies will put it in their mouths and it was concerned
2582 a risk. It sounds like you are rethinking that. Where is that?

2583 Anyway, the issues of phthalates, which we were so happy to get
2584 out of baby toys, it was part of the Consumer Products Safety
2585 Commission, but it looks like you are re-looking at the issue
2586 of phthalates and why is that? There is a re-review going on.

2587 Mr. <Wheeler.= I am afraid I will have to get back to you
2588 for the record on that, Congresswoman.

2589 Ms. <Schakowsky.= Okay. And when it comes to lead, I heard
2590 you saying to Congresswoman Dingell, there are literally millions
2591 of people, more than a million people who are not able to drink
2592 the water. It seems to me that is a crisis wherever it occurs,
2593 and why is it that we are not focusing and in fact why you are
2594 reducing, if not eliminating, is that true, the Lead Risk
2595 Reduction Program?

2596 Mr. <Wheeler.= We have asked for more funding for the lead

2597 exposure reduction through the White House Lead Exposure
2598 Reduction Initiative which includes ten million for lead grants,
2599 reducing lead in drinking water of twenty million, lead research
2600 by ten million, lead testing in schools by five million, and school
2601 drinking fountain replacements by five million. So no, we are
2602 increasing our resources on the lead. In fact, for fiscal
2603 year 2021, the lead-based paint program primarily will focus on
2604 supporting firm and individual certifications and further the
2605 Agency's efforts outlined in the Lead Action Plan. And we have
2606 provided ten million increase for the budget on lead categorical
2607 grants program to support the state level action in addressing
2608 lead exposure.

2609 Ms. <Schakowsky.= Thank you. I am out of time and I yield
2610 back.

2611 Mr. <Tonko.= The gentlelady yields back. Next, the chair
2612 recognizes the gentleman from California, Representative Ruiz,
2613 for 5 minutes, please.

2614 Mr. <Ruiz.= Thank you, Administrator Wheeler, for being
2615 here today. I would like to start with an easy question.

2616 Mr. <Wheeler.= Thank you.

2617 Mr. <Ruiz.= Would you agree that the presence of arsenic
2618 in drinking water is bad?

2619 Mr. <Wheeler.= Yes.

2620 Mr. <Ruiz.= Would you agree that water treatment systems
2621 that remove naturally occurring arsenic should be continuously
2622 monitored?

2623 Mr. <Wheeler.= I am not sure about continuously monitored,
2624 but we certainly need to reduce arsenic in drinking water and
2625 we need to make sure that that is occurring, yes.

2626 Mr. <Ruiz.= Do you believe it should be monitored?

2627 Mr. <Wheeler.= Yes.

2628 Mr. <Ruiz.= Would you agree that civil and criminal
2629 enforcement is a key tool for the EPA to protect the public's
2630 health?

2631 Mr. <Wheeler.= Yes, and that is why enforcement numbers
2632 are up.

2633 Mr. <Ruiz.= Good. I am glad that you agree. This past
2634 fall in my district, the operator of a water treatment system
2635 for a mobile home park on tribal land failed to properly maintain
2636 it, resulting in residents being exposed to drinking water
2637 contaminated with arsenic nine times higher than the maximum
2638 contaminant level. Do you know who caught this violation?

2639 Mr. <Wheeler.= No, I don't. But the Drinking Water Program
2640 is delegated to the State of California so they have primacy--

2641 Mr. <Ruiz.= Well, let me tell you. Let me tell you who
2642 caught this--let me tell you.

2643 Mr. <Wheeler.= Sure.

2644 Mr. <Ruiz.= EPA Region 9 staff. EPA Region 9 staff
2645 identified it and were immediately onsite to issue an emergency
2646 order to the owner and begin an investigation. Shortly after,
2647 when smoke from a mulch fire at an illegal recycling center, also
2648 on tribal land, sickened students at a nearby school, senior EPA

2649 staff were in my office the following week discussing what tools
2650 were available to protect the public's health.

2651 Your compliance and enforcement staff under regional
2652 Administrator Stoker have been responsive, thoughtful, and
2653 diligent in protecting the health and well-being of my
2654 constituents and this is why I am concerned about this
2655 administration's budget. Administrator Wheeler, do you know
2656 what this administration's funding request was for the Public
2657 Water System Supervision Program that helps monitor water systems
2658 for pollutants like arsenic is?

2659 Mr. <Wheeler.= I don't have the number off the top of my
2660 head.

2661 Mr. <Ruiz.= I will tell you. The Trump administration's
2662 budget slashes the Drinking Water System Supervision Program by
2663 \$38 million, a forty percent cut from last year. That is correct.

2664 That is a forty percent cut. Also, the civil and criminal
2665 enforcement division for environmental programs like clean water
2666 and clean air, take a \$15 million cut. Compliance monitoring
2667 is cut by six million dollars. EPA's enforcement of waste and
2668 recycling regulations are cut by \$23 million.

2669 Under this budget, the chances of my constituents drinking
2670 arsenic laden water and breathing hazardous air increases
2671 drastically. So how does cutting programs like enforcement and
2672 monitoring improve the ability of EPA to protect my constituents'
2673 health? How does it help?

2674 Mr. <Wheeler.= First of all, as I started with my first

2675 answer to your first question, the drinking water program is
2676 delegated to the State of California. They do far more
2677 inspections than we do. We oversee the California inspections.

2678 Mr. <Ruiz.= Yes, but there is funding for that. There is
2679 funding for that.

2680 Mr. <Wheeler.= To make sure the states are enforcing the
2681 laws, but under our enforcement program.

2682 Mr. <Ruiz.= So let me ask you a different thing because
2683 we are running out of time and you are not getting to the point
2684 of it because that funding empowers that state and your regional
2685 offices to do the work.

2686 The fiscal year 2021 Trump administration budget cuts the
2687 Tribal General Assistance Program and the Tribal Air Quality
2688 programs by more than thirty percent. These are important
2689 programs used by tribes in my district to improve their air quality
2690 and establish environmental protections on their land that have
2691 benefits not only for their members, but for the surrounding
2692 community.

2693 But because this program is already underfunded, these cuts
2694 will make it even harder for tribes to access this funding. I
2695 am currently in the process of working with the tribes in my
2696 district to partner with agencies like the EPA, your agency, to
2697 develop robust environmental programs to prevent, mitigate, and
2698 respond to airborne hazards. How can the EPA support tribes and
2699 tribal consortia who are aiming to establish environmental
2700 programs on their land?

2701 Mr. <Wheeler.= First of all, we provide assistance,
2702 technical assistance to tribes and states and local communities
2703 all across the country. When we delegate a program to a state,
2704 they are responsible for taking over the inspection and assistance
2705 to the local communities within the state. But, you know, a
2706 perfect example is our Research Office over the last 2 years
2707 provided 35,000 hours of technical support to states, local
2708 governments, and tribes.

2709 Mr. <Ruiz.= So let's talk more about that. I am genuinely
2710 interested. And will you commit to working to honor the
2711 government's trust responsibility to ensure the tribes are fully
2712 supported in their efforts to establish and grow tribal
2713 environmental programs with me?

2714 Mr. <Wheeler.= Yes. I will be happy to work with you on
2715 that.

2716 Mr. <Ruiz.= Great. Let's have a conversation after this.
2717 Thank you.

2718 Mr. <Tonko.= The gentleman yields back. The chair now
2719 recognizes the gentleman from California, Representative Peters,
2720 for 5 minutes, please.

2721 Mr. <Peters.= Thank you, Mr. Chairman. And thank you, Mr.
2722 Wheeler, for being here. I will just share with you, I also was
2723 an EPA employee when I first came out of college, so I am not
2724 sure there is many of us who started out there, but I am proud
2725 of my service there.

2726 Mr. <Wheeler.= We both did.

2727 Mr. <Peters.= Thank you. As I am sure you know, the Tijuana
2728 River is routinely, experiences millions of gallons of sewage
2729 dumped across the U.S.-Mexico border. Last year, the previous
2730 administrator for Region 9, Mike Stoker, came to Coronado, a beach
2731 community I represent in my district, told a roomful of citizens
2732 and elected officials from the County of San Diego, the San Diego
2733 Regional Water Quality Control Board, the City of San Diego,
2734 Customs and Border Protection, and others that "we are a hundred
2735 percent committed to doing everything we can to resolve this
2736 issue.'" And I can tell you, as are we locally committed.

2737 And since that meeting, I am proud to say that Congress in
2738 working with President Trump has secured \$325 million for
2739 construction of high priority wastewater facilities along the
2740 border and Congress will be watching to ensure that all relevant
2741 agencies are working together towards a comprehensive regional
2742 solution. Now, 25 million of that was zeroed out in the budget,
2743 which I don't understand, but let me talk a little bit more about
2744 some of the substance around this.

2745 It is Congress's expectation that the EPA will lead and
2746 coordinate efforts to address the transboundary of sewage flows
2747 in the Tijuana River Valley watershed. How does EPA view its
2748 role?

2749 Mr. <Wheeler.= We are taking the role very seriously.
2750 There is new money available to us through the USMCA.

2751 Mr. <Peters.= Right.

2752 Mr. <Wheeler.= And we are actually, I believe the letter

2753 is going out either today or tomorrow inviting the local mayors,
2754 although most of them have already been notified ahead of time
2755 of a meeting on March 9th--

2756 Mr. <Peters.= Right.

2757 Mr. <Wheeler.= --with our new Region 9 regional
2758 administrator, the assistant administrator for water, and the
2759 assistant administrator for international affairs to talk about
2760 how we are going to fund the projects to clean up the water in
2761 the Tijuana River basin.

2762 Mr. <Peters.= While at the same time we get the \$300
2763 million--

2764 Mr. <Wheeler.= Yes.

2765 Mr. <Peters.= --the proposed budget defunds \$25 million.
2766 Was there a reason for that that--

2767 Mr. <Wheeler.= Well, we have the new money through the USMCA
2768 and we believe that that money available along with there is a
2769 regional bank that we sit on the board of--

2770 Mr. <Peters.= NAD Bank, right?

2771 Mr. <Wheeler.= --to supply funding for projects along the
2772 border. We believe that those two funding streams this year will
2773 be able to take care of the problems on the border.

2774 Mr. <Peters.= We were very encouraged by Mr. Stoker's
2775 interest in working with the locals in identifying priority
2776 projects, so that now we have this money we will know where the
2777 first dollar should be spent to make the greatest impact and we
2778 will be able to get planning on the ones that will take longer.

2779 Have you given direction to the new administrator to continue
2780 that cooperation with locals?

2781 Mr. <Wheeler.= Yes, absolutely. And he has already reached
2782 to a number of the mayors and the local community leaders. He
2783 is only on the job 2 weeks.

2784 Mr. <Peters.= I know that you would not talk about personnel
2785 matters, but I will just let you know that one of the rumors going
2786 around about why Mr. Stoker was relieved is that he was speaking
2787 too highly of the locals or was too nice to the locals. We would
2788 hate to think that there was any truth to that.

2789 Mr. <Wheeler.= There is no truth to that at all.

2790 Mr. <Peters.= Great, okay. And can you tell me what
2791 conversations you have had with our new administrator--I think
2792 his name is John Busterud?

2793 Mr. <Wheeler.= Yes.

2794 Mr. <Peters.= On this topic so far?

2795 Mr. <Wheeler.= When I interviewed him for this job, I told
2796 him that that had to be one of the highest priorities as regional
2797 administrator was to try to address this problem.

2798 Mr. <Peters.= Okay. Well, I can tell you, it is our highest
2799 priority too and we obviously have worked very hard. We
2800 appreciate the cooperation of the administration. It is more
2801 than just a recreational, a tourism issue, although those are
2802 very important to us and tourism is a big part of our economy.

2803 It is also, it is a national security issue in that the Navy
2804 can't train, the Navy SEALs can't train in water that is

2805 contaminated, and the Border Patrol can't patrol a border that
2806 is loaded with sewage.

2807 So, I appreciate your committing to work with us, committing
2808 to the new administrator of Region 9 being as cooperative with
2809 locals as the previous one was, and look forward to continuing
2810 a partnership with you to solve this very important problem.
2811 I can't think of anything right now in the hemisphere that is
2812 probably as big of a contamination issue as this
2813 multibillion-dollar sewage issue that we have.

2814 Mr. <Wheeler.= Thank you, Congressman. I am told that he
2815 will be here in D.C., the new regional administrator, in 3 weeks.
2816 I would be happy to set up a meeting with you and him.

2817 Mr. <Peters.= I will look forward to that. Thank you very
2818 much and I yield back.

2819 Mr. <Wheeler.= Thank you.

2820 Mr. <Tonko.= The gentleman yields back. The chair now
2821 recognizes the gentlelady from California, Representative
2822 Barragan, for 5 minutes, please.

2823 Ms. <Barragan.= Well, thank you, Mr. Chairman.

2824 Mr. Wheeler, last time you were here I raised an issue about
2825 brown water in Compton. Instead of working with my office on
2826 the issue, reaching out to us on working on the issue, you used
2827 that as your explanation about why you came after California and
2828 started to investigate California. It is pretty sad that you
2829 would use an exchange with a member of Congress to then go on
2830 and attack a state.

2831 Today you repeated those allegations about San Francisco,
2832 which is what you indicated our exchange prompted this
2833 investigation. I just, you know, I need it on the record, put
2834 on, the State Senator Scott Wiener, who represents San Francisco,
2835 has indicated that those allegations that you have made and you
2836 have repeated here today about billions of gallons of raw sewage
2837 going into the oceans is misleading and fraudulent. Those are
2838 his words and I am quoting that.

2839 The mayor of San Francisco has also gone on to characterize
2840 the allegations that you have repeated here today before our
2841 committee in the same way, and has even gone on to say that the
2842 EPA recently awarded San Francisco the largest merit-based award
2843 it has under its competitive loan program for water
2844 infrastructure. And those are quotes that I am reading in
2845 response.

2846 And so, it is a sad day when the Administrator comes into
2847 this committee and then uses an exchange with me to come after
2848 California and uses that, although not shocking for this
2849 administration, but sad to see you do that.

2850 Mr. <Wheeler.= Congresswoman, last year you were not able
2851 to answer--

2852 Ms. <Barragan.= Sir, I am not asking for a comment. You
2853 have already given your comment to the media and this was my
2854 opportunity to respond about how outrageous it is that you--

2855 Mr. <Wheeler.= And you didn't let me talk last year either,
2856 which is why we didn't have a conversation.

2857 Ms. <Barragan.= --would use this exchange. You did not
2858 reach out to my office and you did not work with me.

2859 Mr. <Wheeler.= You only allowed me to answer yes or no
2860 questions last year.

2861 Ms. <Barragan.= The budget that is proposed is just a
2862 furtherance of what this administration and what your Agency is
2863 doing, the hypocrisy on them trying to do something, yet here
2864 they are proposing a cut, twenty-three percent, in Drinking Water
2865 State Revolving Fund, which is what communities rely upon to help
2866 make sure that the water is clean, not just in my district but
2867 across the country.

2868 Since you showed an interest in air pollution in California,
2869 in my own district in South Los Angeles it is a nonattainment
2870 for particulate matter and ground level ozone. Both of these
2871 are very damaging to the respiratory system of community members.

2872 Our asthma rates are twice the national average in communities
2873 that are ninety percent black and Latino. Is that acceptable
2874 to you?

2875 Mr. <Wheeler.= First of all, you didn't allow me to answer
2876 questions last year except for yes or no or I would have explained
2877 to you that the State of California has delegated water--

2878 Ms. <Barragan.= Sir, I am going to reclaim my time. I am
2879 moving on to this question. I want to know if you think it is
2880 okay that asthma rates are twice the national average in
2881 communities that are ninety percent black and Latino.

2882 Mr. <Wheeler.= Perhaps next year you will allow me to answer

2883 last year's question then.

2884 Ms. <Barragan.= Are you going to answer the question, sir?

2885 Okay, I am going to assume that you think it is okay that in
2886 black and Latino communities that there is a much higher rate
2887 of asthma.

2888 Mr. <Wheeler.= Absolutely not.

2889 Ms. <Barragan.= Okay. Well, I am glad to hear you say that.

2890 Mr. <Wheeler.= And our programs are working to get
2891 nonattainment areas to attainment.

2892 Ms. <Barragan.= The EPA has Targeted Airshed Grants
2893 programs. I am assuming that you are familiar with these
2894 programs. It supports local clean air projects in areas facing
2895 the highest levels of ground level ozone and fine particulate
2896 matter; is that right?

2897 Mr. <Wheeler.= Well, California has the highest number of
2898 outdated or non-approvable SIPs than any other state.

2899 Ms. <Barragan.= Sir, I am asking about the EPA's Targeted
2900 Airshed Grant Programs from the EPA.

2901 Mr. <Wheeler.= We are working with--

2902 Ms. <Barragan.= Are they there to do that or not?

2903 Mr. <Wheeler.= We are working with communities under a
2904 number of different programs to get from nonattainment to
2905 attainment.

2906 Ms. <Barragan.= Are you familiar with the EPA's Targeted
2907 Airshed?

2908 We have gotten more programs, more cities to attainment than the

2909 previous two administrations.

2910 Ms. <Barragan.= Okay, Mr. Wheeler, I am going to assume
2911 you don't know about your own EPA's Targeted Airshed grants.
2912 Let me read you from the EPA website what it is designed to do,
2913 since you don't know as the Administrator. "This program will
2914 assist local, state and/or tribal air pollution control agencies
2915 to develop plans and conduct projects to reduce air pollution
2916 in nonattainment areas that EPA determines are the top five most
2917 polluted areas relative to ozone annual average fine particulate
2918 matter or 24-hour PMS 2.5 National Ambient Air Quality
2919 Standards.'" I am reading directly from the EPA's website.

2920 So, sir, now that I have educated you on what your programs
2921 are, looking at a PowerPoint slide from the EPA website as well,
2922 which I will hold up right here--maybe somebody on your team has
2923 it over there--you are proposing in this budget to cut, basically
2924 eliminate these Targeted Airshed Grants program that the EPA
2925 website uses to reduce pollution; is that right?

2926 Mr. <Wheeler.= Are you interested in the facts or are you
2927 interested in just making a speech? We have other multipurpose
2928 grants--

2929 Ms. <Barragan.= Sir, I am asking you yes or no questions.
2930 It is clear to me--

2931 Mr. <Wheeler.= Just as you did last year and you didn't
2932 get the information you wanted.

2933 Ms. <Barragan.= --you are eliminating programs that are
2934 going to air pollution.

2935 Mr. <Wheeler.= That is what you did last year and you didn't
2936 get the information you wanted.

2937 Ms. <Barragan.= Well, it is clear you didn't know the
2938 answers, sir.

2939 Mr. <Wheeler.= I thought you were going to follow up with
2940 written questions for the record so that I could explain to you
2941 what is going on in California last year and you didn't even do
2942 that. So apparently, you are more concerned about making a public
2943 press statement than you are about getting information.

2944 Ms. <Barragan.= Well, it is unfortunate you don't know about
2945 your own program. I yield back.

2946 Mr. <Tonko.= The gentlelady yields back. The chair now
2947 recognizes the gentleman from Iowa, Representative Loeb sack, for
2948 5 minutes, please.

2949 Mr. <Loeb sack.= Mr. Chairman, thank you for allowing me
2950 to waive on to this subcommittee today. And thank you,
2951 Administrator Wheeler, for being here as well.

2952 And you might imagine what I am going to ask you about since
2953 I am from Iowa, Mr. Wheeler. As you are well aware, the Tenth
2954 Circuit Court of Appeals recently found that EPA had exceeded
2955 its statutory authority in issuing small refinery waivers to
2956 companies who had not received waivers in the prior year. The
2957 court concluded that the Agency may only extend, and that is their
2958 word, existing exemptions and cannot grant a new waiver to a
2959 company that had not consistently held on.

2960 Under this administration we have seen a dramatic increase

2961 in the number of waivers granted each year, leading to the loss
2962 as you know of over four billion gallons of biofuel demand and
2963 forcing multiple facilities to idle production or shut down
2964 operations entirely, not to mention the effects on the farmers
2965 themselves as well. The industry is hopeful that this ruling
2966 will restore the ability of the RFS to drive demand and expand
2967 markets for renewable fuels, providing a badly needed economic
2968 boost for rural America. And we know there are a lot of reasons
2969 why rural America is suffering right now.

2970 Administrator Wheeler, Bloomberg News reported yesterday
2971 that the administration has decided to limit small refinery
2972 exemptions consistent with the Tenth Circuit Court's decision.

2973 Can you confirm that for me?

2974 Mr. <Wheeler.= I cannot. We are still in discussions with
2975 the Department of Justice trying to analyze the Tenth Circuit
2976 opinion and we have no announcements at this point. I am not
2977 sure the source of the Bloomberg story.

2978 Mr. <Loebsack.= Can you confirm that the EPA will be
2979 applying this decision nationally and not just to the refineries
2980 under Tenth Circuit's jurisdiction?

2981 Mr. <Wheeler.= We are still looking at the Tenth Circuit
2982 and we have not made any final determinations. But I will say
2983 that President Trump is fully committed to the RFS program. He
2984 is committed to 15 billion gallons, meaning 15 billion gallons,
2985 which is why we have proposed 15.8--

2986 Mr. <Loebsack.= Right.

2987 Mr. <Wheeler.= --in order to net out at 15 billion gallons,
2988 which is what was required under the law.

2989 Mr. <Loebsack.= And I have a few more questions. EPA issued
2990 exemptions to small refineries in 2013 and 2014 and seven
2991 exemptions in 2015. Does the Agency intend to consider only those
2992 seven refineries that received a waiver in 2015 to be eligible
2993 for a continued extension?

2994 Mr. <Wheeler.= Again, sir, we are still analyzing the court
2995 decision and trying to figure out what it means for the overall
2996 program and what--

2997 Mr. <Loebsack.= I am not a lawyer, but I have to tell you
2998 it is pretty obvious to me what they meant in that decision but--

2999 Mr. <Wheeler.= Good.

3000 Mr. <Loebsack.= --I will take that as your answer at this
3001 point.

3002 Mr. <Wheeler.= I am a lawyer, but I still have to defer
3003 to the Department of Justice and my own General Counsel before
3004 we make a decision.

3005 Mr. <Loebsack.= So does the Agency intend to provide new
3006 guidance based on the court decision and, if so, when can we expect
3007 that?

3008 Mr. <Wheeler.= We will, and hopefully very shortly.

3009 Mr. <Loebsack.= Okay, thank you. Another significant
3010 issue is, of course, the lack of transparency that we have
3011 regarding the Small Refinery Waiver Program. And while I
3012 understand that not all the information submitted by a refiner

3013 should be publicly released, the name of the refinery I think
3014 should be. How does EPA intend to make its decision on these
3015 waiver petitions more transparent going forward, and specifically
3016 would EPA support making the names and locations of refineries
3017 seeking an exemption publicly available?

3018 Mr. <Wheeler.= Well, it depends on what the company's claim
3019 as far as confidential business information. Sometimes the name
3020 of the company is legitimately considered confidential business
3021 information. What we have done is put all the information that
3022 we do receive on a rolling basis on our website to try to provide
3023 more transparency to the program.

3024 Mr. <Loebsack.= Well, I am a little concerned. That sounds
3025 like you are going to leave it up to the company to make that
3026 decision then.

3027 Mr. <Wheeler.= Companies--there was a Supreme Court
3028 decision on CBI data that just came out a year and a half ago
3029 instructing federal agencies to take CBI claims seriously and
3030 to honor those claims.

3031 Mr. <Loebsack.= Okay.

3032 Mr. <Wheeler.= So we have multiple court decisions that
3033 we are trying to implement here.

3034 Mr. <Loebsack.= Well, and as you know, the excessive use
3035 of the small refinery waiver over the past 3 years has been
3036 incredibly harmful to Iowa farmers, farmers across the country
3037 especially corn growers, especially soybean producers as well.
3038 Biofuel producers, the rural communities more generally, the

3039 trade issues, of course, have complicated things as well.
3040 Farmers really don't want bailouts. They really want markets
3041 and they want to be able to produce biofuels and sell those here
3042 domestically.

3043 I am pleased with the findings of the Tenth Circuit Court
3044 which upheld the integrity of the RFS and I strongly encourage
3045 you folks to make sure that you accept that decision and that
3046 you will apply it nationally going forward. You won't be--folks
3047 here won't be seeing me after the next 9 or 10 months, I am
3048 retiring, but I can guarantee that whoever takes my place is going
3049 to be at least as much of a bulldog on this as I am. We will
3050 see who the next President is, what the next administration says,
3051 but in the end, I think the people of Iowa, the people of the
3052 Midwest, these corn growers and soybean producers on a bipartisan
3053 basis are going to continue to press as hard as we can on this
3054 issue. We won't be letting up. Thank you.

3055 Mr. <Wheeler.= A lot of people and things change through
3056 politics, but I think one thing that is absolutely steady is the
3057 Iowa delegation supporting ethanol.

3058 Mr. <Loebsack.= On a bipartisan basis.

3059 Mr. <Wheeler.= On a bipartisan basis.

3060 Mr. <Loebsack.= Thank you, Mr. Administrator. Thank you,
3061 Mr. Chair, and I yield back.

3062 Mr. <Tonko.= The gentleman yields back. The chair now
3063 recognizes the very patient representative from Massachusetts,
3064 Representative Kennedy, for 5 minutes, please.

3065 Mr. <Kennedy.= Thank you, Mr. Chairman. I want to thank
3066 you for convening this hearing. Mr. Wheeler, thank you for being
3067 here. Thank you for your patience as well and thank you for
3068 letting me waive on.

3069 Mr. Wheeler, earlier this week I sent you a letter regarding
3070 a planned EPA project to bury thousands of barrels of toxic and
3071 radioactive waste less than a mile from one of the world's richest
3072 fishing grounds in Boston Harbor. I don't expect you to be
3073 intimately familiar with this project and we just sent you the
3074 letter a little while ago, but there is concern back home in
3075 Massachusetts about what could come with the burying of these
3076 materials that are already there and now covering it with tons,
3077 millions of tons of additional sediment.

3078 And the worst-case scenario involves that toxic hazardous
3079 waste leaking into the water under the weight of, as I said,
3080 millions of tons of rock-filled sediment, immediately
3081 jeopardizing the survival of nearby fishing stock and a number
3082 of endangered species that are right up against, the site is
3083 actually up against the marine sanctuary. So all I am asking
3084 you at least for this part is, will you commit to working with
3085 our office and the regional EPA office to put in place a plan
3086 to mitigate what could become a worst-case scenario?

3087 Mr. <Wheeler.= Yes. It is my understanding that my Region
3088 1 staff is already engaged with your office.

3089 Mr. <Kennedy.= Yes.

3090 Mr. <Wheeler.= And that we will be, we have a meeting

3091 scheduled soon between our staff and your office and that would
3092 be happy to work with you on that and we are working with the
3093 Army Corps on this site as well.

3094 Mr. <Kennedy.= You are and they have responded. I
3095 appreciate that. It is again, given the nature of the conditions
3096 there--

3097 Mr. <Wheeler.= Certainly.

3098 Mr. <Kennedy.= --a concern, and again for the record that
3099 waste was there long before, for a long time.

3100 Mr. <Shimkus.= Before you were born.

3101 Mr. <Kennedy.= Maybe. Thank you. Maybe. But maybe, but
3102 for a long time.

3103 Mr. <Wheeler.= I want to--before I was born too.

3104 Mr. <Kennedy.= Okay.

3105 So second, another local concern. There is, I think,
3106 unambiguous evidence from epidemiology and environmental
3107 literature that ultra-fine particles, also known as UFPs, are
3108 a very component of air pollution. They do remain unregulated
3109 because they are too small to be captured in the mass base PM
3110 2.5 standards. The Clean Air Act mandates setting health-based
3111 standards with no requirement that technology exists for either
3112 the monitoring or regulation of the pollutant, so wondering why
3113 the EPA hasn't moved toward establishing air quality standards
3114 for UFPs to protect the health of tens of millions of Americans
3115 that live in high UFP areas like right next to roadways and
3116 airports.

3117 Mr. <Wheeler.= We are updating the PM NAAQS this year.
3118 It will be finalized by the end of this year and that is certainly
3119 a research question that we have. We have a lot more questions
3120 than answers on that. But the way the NAAQS process works, we
3121 update each one every 5 years and after we are finished updating
3122 the PM standards for this year, we will start the next 5-year
3123 review the very next day.

3124 But we are taking a look at that science as it comes in,
3125 but there is still a lot more unanswered questions on not only
3126 the impact, but also how you would control it, how you would
3127 measure it. As you mentioned, the monitors don't pick that up.

3128 You know, we are getting to the point in our environmental
3129 protection particularly on the clean air side where detection
3130 or public health impacts on people are getting us closer and closer
3131 to what is naturally found at background levels, the science has
3132 expanded so much over the last 30 years.

3133 Mr. <Kennedy.= I am sorry. I appreciate that. One of the
3134 challenges that we confront and have been working with
3135 researchers, have some researchers in East Boston that are looking
3136 at UFPs as the pollutant coming in from landings at Logan Airport.

3137 I appreciate there is research. I also appreciate that,
3138 understand that from your answer there could be years and years
3139 before this is done.

3140 Mr. <Wheeler.= Hopefully not years and years, but we don't
3141 have the science yet for that.

3142 Mr. <Kennedy.= And I would also couple that with some of

3143 the communities here are environmental justice communities.
3144 There is a seventy-one percent proposed cut to that office under
3145 EPA, which I would hope--

3146 Mr. <Wheeler.= Well, actually, our administration, we moved
3147 the environmental justice Office out of our enforcement office
3148 and put it in the administrator's office to try to bring more
3149 prominence to environmental justice across the Agency and we are
3150 putting environmental justice in all of our programs. And a
3151 perfect example is Our Brownfields Program where we are focusing
3152 in particular on Opportunity Zones which goes to the heart of
3153 environmental justice. In this way, 108 of our brownfields
3154 grants last year went to Opportunity Zones both inner cities and
3155 rural communities.

3156 Mr. <Kennedy.= Oh, okay. Well, I look forward to working
3157 with your office and the implementation of that because I have
3158 a bit more concern about how that is being defined and Opportunity
3159 Zones are, I think we have seen the impact of those economically,
3160 actually vary quite a bit depending on the project. There is
3161 communities like Revere, Everett, Chelsea in Boston that are
3162 begging for the attention that is necessary to lay off some of
3163 the contamination that has been put in place now for an awfully
3164 long time. And we will be looking for some assistance to make
3165 sure that those voices are heard. My time is up and I yield back.

3166 Mr. <Tonko.= The gentleman yields back. I believe that
3167 concludes the list of colleagues who, members who wanted to
3168 question our witness. Let me now move to requesting unanimous

3169 consent to enter the following into the record.

3170 We have a letter from the American Public Works Association;
3171 a letter from EPA to John Kim, director of the Illinois
3172 Environmental Protection Agency; a letter from EPA to Catherine
3173 McCabe, a commissioner of the New Jersey Department of
3174 Environmental Protection; a letter from EPA to Basil Seggos,
3175 commissioner of the New York Department of Environmental
3176 Conservation; a letter from EPA to Richard Whitman, director of
3177 the Oregon Department of Environmental Quality; an article
3178 published in Bloomberg Environment entitled, "EPA lead proposal
3179 derided as weak, may be sneakily strong;" EPA's PFAS Action Plan
3180 Program update; and finally, EPA's 2019 Year in Review.

3181 I ask for unanimous consent to enter these into the record.

3182 Mr. <Shimkus.= Without objection.

3183 Mr. <Tonko.= Without objection, so ordered.

3184 [The information follows:]

3185

3186 *****COMMITTEE INSERT*****

3187 Mr. <Tonko.= And again, my thanks to Administrator Wheeler,
3188 the thanks of the subcommittee to him for joining us for today's
3189 hearing.

3190 I remind members that pursuant to committee rules, they have
3191 10 business days by which to submit additional questions for the
3192 record to be answered by our witness.

3193 Administrator Wheeler, I ask that you respond promptly,
3194 please, to any such questions that you may receive, and at this
3195 time, the subcommittee is adjourned.

3196 [Whereupon, at 12:41 p.m., the subcommittee was adjourned.]