



MEMORANDUM

September 17, 2024

TO: Members of the Subcommittee on Environment, Manufacturing, and Critical Materials

FROM: Committee Majority Staff

RE: Hearing titled, “Holding the Biden-Harris EPA Accountable for Radical Rush-to-Green Spending”

I. INTRODUCTION

The Subcommittee on Environment, Manufacturing, and Critical Materials has scheduled a hearing on Thursday, September 19, 2024, at 10:00 a.m. (ET) in 2123 Rayburn House Office Building. The title of the hearing is “Holding the Biden-Harris EPA Accountable for Radical Rush-to-Green Spending.” The hearing will examine the work, plans, and perspectives of the Office of the Inspector General of the Environmental Protection Agency (EPA) relating to oversight of EPA programs and spending, including funding from the Infrastructure Investment and Jobs Act (IIJA) and the Inflation Reduction Act (IRA).

II. WITNESS

- **The Honorable Sean W. O’Donnell**, Inspector General, U.S. Environmental Protection Agency.

III. STATUTORY BACKGROUND

THE INFRASTRUCTURE INVESTMENT AND JOBS ACT (IIJA)

On November 15, 2021, the President signed the IIJA into law (Public Law 117-58). Division J, Title VI of the IIJA appropriated approximately \$60 billion over a five-year period to the EPA (Fiscal Year 2022 through FY2026). The IIJA provided the largest appropriation that the EPA had ever received. Supplemental appropriations to the EPA under the IIJA doubled the Agency’s typical annual appropriations for each year of the five-year period from FY 2022 through 2026.¹

¹ [Infrastructure Investment and Jobs Act Progress Report—Year One \(epaig.gov\)](https://www.epa.gov/epa-ig/infrastructure-investment-and-jobs-act-progress-report-year-one)

Division J, Title VI of the IJA includes significant, no-year funding for drinking water programs (more than \$35 billion)²; environmental cleanups (\$5 billion)³; clean school buses (\$5 billion); recycling and other solid waste programs (\$450 million)⁴; and increases the amounts available in the EPA's accounts for "salaries, expenses, and administration" (to a maximum of more than \$1.308 billion).⁵ The EPA has described the IJA's enactment as a "moment for the Agency to expand from its historic role as a regulatory and scientific agency to be a large-scale funder of critical infrastructure."⁶

The IJA also appropriates funds to the EPA Office of the Inspector General (OIG) (over \$53.857 million in each of FY2022 through 2026). Most of these funds are available until expended, which the EPA OIG reports is consistent with the actual life cycle of oversight work and will permit the EPA OIG to use these funds for at least six years beyond FY2026.⁷

As of March of 2024, according to the President's FY2025 budget request for the EPA, the Agency has already provided over \$11 billion to support water infrastructure -- \$7.7 billion in drinking water grants, funding 350 projects, and \$3.4 billion in clean water grants, funding 155 projects.⁸ In addition, the EPA states it has made available more than \$6.5 billion to find and replace lead pipes, has awarded nearly \$2 billion through the Clean School Bus Program for approximately 5,100 electric and low-emission school buses, and used funds to address legacy pollution for 152 Superfund sites.⁹

Additionally, section 80201 of the IJA reinstated (through December 31, 2031) and modified chemical excise tax provisions under Internal Revenue Code (IRC) sections 4661 through 4672. These types of taxes, which had previously expired on December 31, 1995, generated revenue for the Hazardous Substances Superfund Trust Fund. The Hazardous Substances Superfund Trust Fund provides EPA funding to aid in cleanup of "orphan" sites¹⁰ under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). Specifically, section 80201 of the IJA effectuates excise taxes, beginning on July 1, 2022, on statutorily listed chemicals that are manufactured or produced domestically or that are

² This figure includes \$11.713 billion for federal capitalization grants of state loan funds, \$15 billion for lead service line replacements, and \$9 billion to tackle emerging contaminants, including PFAS chemicals – with \$5 billion of that amount going to small and disadvantaged communities.

³ This figure includes \$3.5 billion for costs associated with Superfund and \$1.5 billion for brownfields assessment and cleanup grants.

⁴ This amount includes \$100 million in State grants under the Pollution Prevention Act, \$275 million for grants under Save Our Seas 2.0 Act (Public Law 116-224), and \$75 million to award grants focused on improving material recycling, recovery, management, and reduction.

⁵ Amount reflects no-year appropriations made available pursuant to the following statutory categories within the Environmental Protection Agency section of IJA, Title VI: Paragraphs (2) and (3) of Environmental Programs and Management, Paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (10), (11), and (12) of State and Tribal Assistance Grants.

⁶ U.S. Env'tl. Protection Agency, 190R22005, Year One Anniversary Report, Bipartisan Infrastructure Law (2022).

⁷ [Infrastructure Investment and Jobs Act Progress Report—Year One \(epaig.gov\)](#)

⁸ [FY 2025 EPA Budget in Brief, p.24](#)

⁹ Ibid.

¹⁰ An "orphan" site is a location posing serious threats due to hazardous substance contamination, but the responsible parties that would otherwise clean it up are unknown, unable, or unwilling to perform the necessary remedial actions.

imported for consumption, use, or warehousing in the United States.¹¹ The Joint Committee on Taxation (JCT) estimated that these excise taxes would increase federal revenues by \$14.5 billion from FY2022 to FY2031,¹² Yet only \$472.8 million in tax receipts were collected in fiscal year 2024, although the EPA's congressional justification estimated the chemical taxes would bring almost \$1.7 billion.¹³

Of note, Division J, Title VI, Section 613 of the IJA authorizes the expenditure of future tax receipts from the Superfund Trust Fund without further appropriation.¹⁴

INFLATION REDUCTION ACT (IRA)

On August 16, 2022, President Biden signed the IRA, as a part of budget reconciliation, into Public Law 117-169. The provisions in the IRA that are relevant to the EPA programs are contained in two different titles: the Title I (taxes), and Subtitle A (air pollution) and Subtitle B (hazardous materials) under Title VI.

Similar to the IJA, under section 13601 of the IRA, another major tax that funded the Hazardous Substances Superfund Trust Fund, the petroleum excise tax, was permanently reinstated¹⁵ and adjustments for inflation were added.¹⁶ This petroleum excise tax, which took effect on January 1, 2023, is generally paid for by refineries that receive crude oil or by the person using or importing a petroleum product.¹⁷ The Congressional Budget Office (CBO) projected this tax to raise just over \$11.7 billion over 10 years.¹⁸ Similar to the IJA, the petroleum and oil taxes brought in \$732.1 million in tax receipts over fiscal year 2024, a drop in the previous estimate of \$858 million.¹⁹

The IRA, under subtitles A and B, also appropriated around \$41.5 billion to the EPA over the next decade.²⁰ Specifically, those two subtitles contained 17 different sections that provided federal funds to stand up a number of new programs within those sections, including the Greenhouse Gas Reduction Fund (\$27 billion), Climate Pollution Reduction Grants (\$5 billion), grants to reduce air pollution at ports (\$3 billion), the Methane Emissions Reduction Program and its fee (\$1.55 billion), environmental and climate justice block grants (\$3 billion), a clean heavy-duty vehicles program (\$1 billion), an environmental product declaration program for construction and related materials (\$250 million), and increased air pollution monitoring in low-income and disadvantaged communities (\$235 million).

¹¹ [Federal Register :: Superfund Chemical Taxes](#)

¹² [IF11982 \(congress.gov\)](#)

¹³ [Superfund tax shortfall: Trouble for cleanups, EPA budget - E&E News by POLITICO \(eenews.net\)](#)

¹⁴ Ibid.

¹⁵ The petroleum excise tax used to fund the Hazardous Substances Superfund Trust Fund has previously expired at the end of 1995.

¹⁶ [R47202 \(congress.gov\)](#)

¹⁷ Ibid.

¹⁸ [Estimated Budgetary Effects of H.R. 5376, the Inflation Reduction Act of 2022 \(politicopro.com\)](#)

¹⁹ [Superfund tax shortfall: Trouble for cleanups, EPA budget - E&E News by POLITICO \(eenews.net\)](#)

²⁰ [Inflation Reduction Act of 2022: U.S. Environmental Protection Agency and Selected Other Environmental Provisions \(crs.gov\)](#)

the agency receiving a huge funding infusion through both laws and standing up numerous new programs in a compressed timeframe.²⁶

IV. ISSUES

The following issues may be examined at the hearing:

- Is the EPA equipped to manage the pace and scale of spending under the IIJA and the IRA?
- What challenges does the EPA face in managing grants, spending, and data under IIJA and IRA?
- How does the EPA monitor and oversee its spending under these laws and is it different than the EPA's normal practice?
- What is necessary to prevent waste, duplication, fraud, or abuse of taxpayer funds?

V. STAFF CONTACTS

If you have any questions regarding this hearing, please contact Jerry Couri, Christen Harsha, or Mary Martin of the Committee staff at (202) 225-3641.

²⁶ *Follow the Money: Oversight of President Biden's Massive Spending Spree: Hearing Before the Subcomm. on Oversight and Investigations of the H. Comm. on Energy and Commerce, 118th Cong. (2023).*