

**THE ENVIRONMENTAL PROTECTION AGENCY'S
PROPOSED BUDGET REQUEST FOR FISCAL
YEAR 2001**

JOINT HEARING
BEFORE THE
SUBCOMMITTEE ON
FINANCE AND HAZARDOUS MATERIALS
AND THE
SUBCOMMITTEE ON
HEALTH AND ENVIRONMENT
OF THE
COMMITTEE ON COMMERCE
HOUSE OF REPRESENTATIVES
ONE HUNDRED SIXTH CONGRESS
SECOND SESSION

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THE ENVIRONMENTAL PROTECTION AGENCY'S PROPOSED BUDGET REQUEST FOR FISCAL YEAR 2001

THURSDAY, MARCH 30, 2000

HOUSE OF REPRESENTATIVES,
COMMITTEE ON COMMERCE,
JOINT HEARING OF THE SUBCOMMITTEE ON FINANCE
AND HAZARDOUS MATERIALS, AND THE
SUBCOMMITTEE ON HEALTH AND ENVIRONMENT,
Washington, DC.

The subcommittees met, pursuant to notice, at 10:05 a.m., in room 2123, Rayburn House Office Building, Hon. Michael Bilirakis (chairman, Subcommittee on Health and Environment) presiding.

Members present, Subcommittee on Finance and Hazardous Materials: Representatives Oxley, Bilbray, Shimkus, Deutsch, Stupak, Engel, Barrett, Luther, Capps, and Markey.

Members present, Subcommittee on Health and Environment: Representatives Bilirakis, Upton, Deal, Bilbray, Whitfield, Coburn, Bryant, Brown, Deutsch, Stupak, Green, Strickland, Barrett, and Capps.

Staff present: Amit Sachdev, majority counsel; Bob Meyers, majority counsel; Joe Stanko, majority counsel; Nandan Kenkeremath, majority counsel; Kristi Gillis, legislative clerk; Richard Frandsen, minority counsel; and Alison Taylor, minority counsel.

Mr. BILIRAKIS. The hearing will come to order. This is a joint hearing with Mr. Oxley's subcommittee.

The schedule was the he would kick off the hearing, but he is tied up in Washington traffic, so he will be here as soon as he can get here.

In any case, I want to extend my welcome, as per usual, to the Assistant Administrator, Robert Perciasepe, and, of course, the other EPA officials who will appear to us today.

Thank you for being here today. There are several specific matters which I believe that we should address as part of today's hearing.

However, I must first comment at the outset regarding how EPA proposed to—and I use the term—balance its books in the fiscal year 2001 budget.

That is, the administration's budget request relies heavily on deleting—at least it seems to be that way—all Congressionally directed spending, while at the same time proposing new, unauthorized spending about which little, if anything, is known.

For example, while I support innovative State and local programs on the environment, and might indeed be supportive of more clean air grant programs, I do have concerns about the Clean Air Act Partnership Fund.

The fiscal year 2001 budget, like the fiscal year 2000 budget, contains little substantive information.

Indeed, I would venture to say that the average homeowner provides far more specific information to a mortgage company than EPA has provided to Congress to justify the expenditure of \$85 million.

Second, I am disturbed that EPA has apparently made a conscious and deliberate decision to violate, or at least not abide by, the Clean Air Act provisions respecting air toxics.

The fiscal year 2001 request contains no spending for Federal air toxic standards, even though these are required by November 15 of this year.

I would remind the Agency of Section 112(E)(1)(e) of the Clean Air Act is unambiguous at this point.

The Agency previously acknowledged that it is required—using its words—required to promulgate MACT standards for all 174 source categories by the year 2000.

Third, I must admit that I will be interested in learning if there is any substance behind EPA's recently announced legislative principles and MTBE and the reformulated gasoline program.

At barely a half page in length, the March 20 principles are not a serious effort to address problems in the RFG Program.

In fact, in testimony before the committee and in subsequent staff briefings, EPA could not answer even the most basic questions about what the Agency supports or does not support.

EPA cannot claim to be working with Congress when it cannot explain in any detail what it is proposing.

Fourth, I remain concerned about safe drinking water research.

Last October, the Subcommittee on Health and Environment held a hearing to examine the adequacy of State drinking water research programs.

The fiscal year 2001 budget claims a modest increase in such funding. However, I remain concerned that such spending may still be woefully short of the needs previously identified by EPA.

I remain concerned that this matter is just not a priority for the administration.

As a final matter of interest, I am also determined honestly to hold EPA accountable to local communities in the Superfund clean-up process.

To address that concern, we must assure continued funding for the Office of the National Hazardous Waste and Superfund ombudsman.

I have experienced firsthand the important work of the ombudsman in connection with the Stouffer Chemical Superfund site located in my district—and I might add, in my community—of Tarpon Springs, Florida.

I invited the ombudsman to conduct an independent review of the Stouffer site to address the concerns of local citizens who felt they were being shut out of the clean-up process.

More than anyone, residents of the neighborhood surrounding a hazardous waste site should have their voices heard in the clean-up debate.

The ombudsman has worked effectively and aggressively to uncover the facts surrounding the Stouffer site, as well as other Superfund sites across the Nation.

He must be allowed to continue his important work, and the EPA cannot be allowed to impose serious funding cuts or target this office for elimination.

We must ensure that the final fiscal year 2001 budget approved by Commerce includes adequate funding for this office.

The Chair will now yield to Mr. Brown for his opening statement.

Mr. BROWN. I thank the chairman. I would like to welcome our witnesses and extend my thanks to you for joining us today to discuss EPA's budget request for fiscal year 2001.

Americans around the country of every political stripe have made it clear they want a clean and healthy environment.

I commend the EPA for your hard work and your dedication in protecting our environment and promoting public health.

I strongly support the administration's request for the \$92 million to fund Brownfields site assessment and revolving loan fund grants.

Almost every town and city in this country has sites or concerns about contamination from previous commercial or industrial activities prevents productive use of the site.

By encouraging investment in these sites, we can help communities convert them to productive use to create jobs and to save greenfields from development.

It is my hope that Congress will finally act this year to expand Brownfields.

I expect the EPA will work closely with the Commerce Committee on Brownfields legislation.

I also support funding at the level of \$24.4 million proposed in the President's budget request for the endocrine-disrupting chemicals testing program.

Synthetic chemicals such as PCBs and dioxin interfere with the body's natural hormones and may be indicated in a range of health problems in people and animals, including reproductive and developmental abnormalities.

Those chemicals have been concentrated at the Great Lakes food chain, contributing to the decline in some bird and fish species in that region.

We must find out what the effects are on people. In the 1996 Food Quality Protection Act and amendments to the Safe Drinking Water Act, Congress directed EPA, with Mr. Stupak's involvement, mine, and several others, to develop a screening and testing program to help identify endocrine-disrupting chemicals.

EPA has begun developing a program based on an extraordinary consensus agreement among a wide range of stakeholders.

Thirty-two of my colleagues from both sides of the aisle joined me this week in writing to the Appropriations Committee to express our support for the endocrine-disrupter testing program.

On a closely related topic, the Post reported, yesterday, significant findings from the Air Force's ongoing study of former service-

men and -women who worked with Agent Orange, which contained dioxin during the Vietnam War.

The study has found, quote, a significant and potentially meaningful, unquote, correlation between diabetes and the level of dioxin in the bloodstream.

While further research is needed, dioxin's ability to interfere with the normal activity of the endocrine system, which regulates the level of glucose in the blood, may, in fact, play a role in the development of diabetes among these veterans.

Since 1980, over 150 studies of people in 61 countries and regions have found that dioxin and other persistent organic pollutants are building up in our bodies in various tissues and fluids.

Studies of breast milk show high levels of concentration, which means that our children are exposed to toxics at an early and sensitive stage in their development.

In the last 9 years, the EPA has been conducting a reassessment of dioxin exposure and human health based on the available scientific information.

This reassessment will identify the spectrum of adverse human effects from exposure to dioxin and related compounds.

It also includes a comprehensive exposure and source analysis.

I would like to know from you when the remaining three chapters of this very important dioxin reassessment will be made available for public review and public comment. I trust it will be sooner rather than later.

Mr. Chairman, thank you for this opportunity to comment on the EPA budget.

Mr. BILIRAKIS. I thank the gentleman. The chairman of the Finance and Hazardous Materials Subcommittee, Mr. Oxley.

Mr. OXLEY. Thank you, Mr. Chairman. Good morning. I am pleased to open this joint hearing of the Subcommittee on Finance and Hazardous Materials and the Subcommittee on Health and Environment.

It is an honor to work with you in this regard to review the Environmental Protection Agency's fiscal year 2001 budget request.

While I am disappointed that Administrator Browner could not join us today, I am pleased to see so many senior Agency officials from the EPA programs that fall within the committee's jurisdiction.

I welcome them all here today. Without taking too much time, before we hear from EPA this morning, I want to make some brief remarks.

This year, EPA is asking for \$1.45 billion, an increase of \$50 million over last year.

Yet, we are told by all sides that the Superfund program is over the hump, so how EPA intends to wind this program down, and how that will reflect in terms of expenditures is of great importance to me and to the members of my committee.

It is an understatement to say this program has not been a model of efficiency.

GAO has repeatedly described the Superfund program as a, quote, high risk for waste, fraud, and abuse, end quote.

While sites that have been in the pipeline for many years are getting to the construction-complete phase, it has not been without

significant cost, unfairness to many parties, and unneeded litigation.

I am not anxious to see this program unnecessarily expanded or for the EPA to embark on new missions without a clear and specific Congressional mandate.

I also have performance concerns about some of the Agency's non-NPL or Brownfields programs.

For instance, in its opening statement, the EPA touts its achievement of awarding 68 pilots for Brownfields clean-up revolving loan funds.

Yet, it is my understanding that, in fact, only three loans have actually been granted under that program since its inception in 1997.

Aside from Superfund, I have had a lengthy acquaintance with RCRA. I am interested in the regulatory treatment of fly ash.

An EPA staff report to Congress reached the general conclusion that coal combustion waste should not be subject to onerous RCRA hazardous waste regulations.

I understand that a final Agency determination has not been made.

It is my belief that any decision should be based on sound science and recognize the success of strong State regulatory programs, including my home State of Ohio.

I appreciate the opportunity to share my views with the Agency and look forward to working with EPA officials to address specific issues of concern.

Let me now yield to my other colleagues for opening statements.

Then, as I understand it, Mr. Chairman, I will be introducing our panel.

Mr. BILIRAKIS. Yes, that is correct. Before you go into that, Mr. Stupak, for an opening statement.

Mr. STUPAK. Nothing, Mr. Chairman.

Mr. BILIRAKIS. Mr. Shimkus, opening statement?

Mr. SHIMKUS. Thank you, Mr. Chairman. It is great to be here, and I am glad to see all my friends and colleagues from the EPA here.

This is an important time, and I would like to focus on a lot of different issues dealing with the budget, but with real concerns that have been addressed in the State of Illinois nationally.

I agree with Chairman Bilirakis on the 21 March RFG program.

I want to ask you all to work—give me a point of contact that I can work with.

We are putting together a bipartisan coalition to address this.

Congressman Ganske and I have a bill. Karen McCartney is going to be on the bill.

There is some common ground based upon that—your statement, based upon some legislation.

It addresses the Clean Air Act and the Safe Water Act, and the Toxic Substance Act.

I am optimistic that there is a convergence of time and events that I think something good for America can happen.

But, there is some vagueness in the memo—the questions that we want to get answered before we can start negotiating.

I am also interested in, obviously, biofuels and biodiesel in the CMAC program, the Congestion Mitigation and Air Quality Act, and trying to get some input on that.

I followed up with my colleague, Mr. Oxley, on the fly ash issue.

After the 19-year study, we need some resolution, and we are in hopes that this is not an issue that will be politicized.

One, we have had, I think, a lot of science, and the States have done a good job.

The last thing is Superfund small business liability issues.

Quincy, Illinois, it is a broken record in the song that I have been singing, especially the last 2 years.

I appreciate the help that EPA has done in working with my small businesses, but there is still a lot to do in changing the law.

I guess the only frustration we have is we hear movement, but we see no legislation to help us move in that direction.

So, funding will—The budget debate focuses on objectives that we can accomplish based upon a budget.

We are all going to try to tie that all together today, and I appreciate your attendance.

I appreciate the time, Mr. Chairman. I yield back.

Mr. OXLEY. The gentleman yields back. The gentleman from Massachusetts, Mr. Markey.

Mr. MARKEY. Thank you, Mr. Chairman, very much. I welcome the EPA here today.

I think it is perfectly representative of what has happened in the United States over the last 100 years.

I think this is a good time to report to our country as we begin the new century.

In the year 1900, the average life expectancy for a male and female was 48 years of age.

Today, it is near 80 for women and 76 for men. One in three children who were born today in a hospital in the United States will live to the age of 100.

They will see the year 2100. It is largely because of the clean air, the clean water, the safe food, and other laws that were put on the books, that have made this place that we live in a lot healthier.

We have a tremendous revolution that has taken place. I see it, really, in my own district in Woburn, Massachusetts.

Back in the late 1970's, we identified a site where children had been dying from leukemia.

A group of parents went out and went door to door to identify whether or not there was a cluster of deaths, and there had been.

We had to battle long and hard to, first, create a Superfund program, and then to make it possible for it to be funded.

The reality is that we come back today, and that site is now cleaned up in Woburn, a blue-collar city.

GTE Internet is building 1.8 million square feet of new office space, to move from the industrial age, in other words, to the information age.

It is such a success story that, when Robert Redford came to film the movie "A Civil Action," in 1997, there were no more smokestacks left in Woburn.

That is how fundamentally the economy had changed. They had to go find another mill town someplace, because we have been able,

in this new economy, to change the personality of the kinds of jobs that are in blue-collar communities.

But, we couldn't do it without the help of the Federal Government, because, obviously, one city of a population of 40,000 couldn't clean up a hazardous waste site left there by dozens of chemical companies in the 20th century.

The same thing is happening in my own hometown of Malden, along the Malden River where my grandfather got off the boat in 1902 to work at the Lock Coal Company.

Twenty companies had just used the Malden River as a dumpsite.

When they left, then that industrial age passed us by, and all we were left with in Malden was this unusable plot of land as the high-tech companies have moved up to 128, as the Federal Government had built this interstate beltway around the city of Boston.

But, that blue-collar community was left behind. Because of Brownfields, because of clean rivers' laws, we are able now to recapture that land.

We are now planning on building 1.6 million square feet of office space in something that we call Telecom City, something that is going to connect blue-collar America to this information age revolution.

That is the beauty of these programs. It really does help those older cities, those older towns without the resources, who benefited in the industrial age but now are left with the residue but without the resources to clean up the damage that was done to the land and to the water.

So, I want to congratulate you, because I think that, through these programs, we make it possible, especially for those older cities and towns to help to make this transition quickly so that their families aren't left behind in this information age revolution, that their lands, their schools, can be funded by the property taxes that are generated from the new industries moving to those communities as well as they do to the suburbs.

So, I just think it is a great time to celebrate the success of these programs.

I strongly support the Environmental Protection Agency, and I know that Mr. Stupak wants me to yield very briefly, and I would like to, if I have any time remaining.

Mr. STUPAK. Just briefly—I am sure Mr. Shimkus left—because I just wanted to remind him that, for the last 3 years, the legislation he speaks of we have it.

It is my legislation. We have offered it. We always get denied an opportunity for hearing on my legislation to protect those people.

We always get denied the opportunity to present an amendment. We tried over the last 3 years, but Mr. Shimkus doesn't have to recreate the bill.

It is already there. It exists. Please join us. That is what we are trying to do to get the innocent people out of these EPA lawsuits. I thank the gentleman for yielding.

Mr. OXLEY. The gentleman's time is expired. The Chair now recognizes the gentleman from Tennessee, Mr. Bryant.

Mr. BRYANT. Thank you, Mr. Chairman, and welcome to the panel.

As so often happens up here, we are called back and forth to different meetings, and other committees are meeting.

So, I apologize in advance for having to leave. It is my intention to get back and hear as much of your testimony as possible.

I appreciate the Administrator's statement, and particularly in regards to the Food Quality Protection Act.

I am reviewing, on page 9, the four guiding principles you have used in the implementation of this bill.

I am concerned about a couple of those, but I think that could be open to, I think, reasonable debate by reasonable people; certainly the first one using sound science in protecting public health.

That is always one of my concerns, that we use sound science.

Rather than go into an opening statement, I just would like to pose for Ms. Wayland—you might want to make a note here, if you could answer in the event I am not here to ask you these questions.

The registration of new pesticides is obviously important to ensure that our farmers and other pesticide users can continue to effectively control the pests that threaten their crops and public health, especially as the Food Quality Protection Act reviews are resulting in significant cancellations of the uses of several widely used pesticides.

I understand that EPA plans to make registration decisions on 19 new pesticides this year.

That is compared to 26 that you made last year and 27 that you made in 1998.

All this despite an 11 percent increase in your budget—in the registration budget as the administration requested.

In other words, you are getting more money, but it seems like your registration decisions are going down from 27 to 26. Now, to 19.

My question is why is productivity going down when funding is going up?

The fiscal year 2001 budget contains a 14 percent increase for this pesticide registration program.

How many new pesticide registration decisions do you expect to make in fiscal year 2001, and how many of those are for conventional pesticides meeting EPA safety standards?

You may not be able to write this down quickly enough. It may be you have to furnish late-filed some of these answers to your testimony.

One final issue regarding the same issue of EPA's potential restriction of the uses of several widely used products based on the Act's tolerance reassessment process, is to what extent there are available substitute products that provide equivalent or better efficiency.

We need to know that. Because of the current backlog on pending registration requests, many of these new products may be years away from being approved by the EPA as substitutes for the ones that you are taking off.

What is the Agency doing to address the problem of the backlog, and what additional resources do you need to expedite the new registration and review process to cut down or bring down this backlog?

With that said, I do thank all of our Chairmen and ranking members for holding this joint hearing.

I think it is very important on many other issues beyond just this Act that I talked about.

But, I thank you for that and would yield back the balance of my time.

Mr. OXLEY. The gentleman yields back. The gentleman from Texas, Mr. Green.

Mr. GREEN. Thank you, Mr. Chairman, and I thank you and my chairman of the Health and Environment Subcommittee for calling this hearing today.

I think it is really important. In fact, it is very timely for the area I represent.

I have a number of areas I would like to explore today with members of the panel, and I am most pleased to see my friend, Bob Perciasepe, here.

I am glad that we didn't scare you off the last time—the last hearing we had.

EPA has been involved in two issues recently that are of crucial importance to both myself and my constituents.

The first is the Longhorn pipeline. The second is attempts—and I know our chairman mentioned eliminating the use of MTBE in gasoline.

The Longhorn pipeline is a 700-mile pipeline that will transport refined product from Houston refineries to communities in west Texas and El Paso.

As a result of a lawsuit, a Federal District Judge in Austin initially ordered an environmental impact statement for the entire pipeline.

The Federal Government approached Longhorn and asked that Longhorn not appeal due to the potential that, if the appeal failed, potentially every pipeline in the country would be subject to an EIS.

The government offered to conduct an environmental assessment with predetermined parameters, which is only supposed to take 4 months.

Longhorn has agreed to incorporate substantial mitigation above and beyond current Federal and State requirements.

I supported the EA process—environmental assessment process—because the standards for safety would be elevated for pipelines in the country.

Turning that environmental assessment into an environmental impact statement has been proposed by a regional EPA in Texas and would not add any additional information, and would only result in a perception that the National Environmental Policy Act is an obstructionist statute as opposed to being a beneficial decision-making tool.

Your Agency joined with the Department of Transportation and released a preliminary finding of no significant impact in October of last year—October 22.

Four months later, we are still—even longer than 4 months—we are still studying the pipeline.

I would like the EPA to move this process along. The EPA has studied everything there is to know about the Longhorn pipeline.

Longhorn is committed to make their pipeline one of the safest in the country.

Frankly, I wouldn't support it if they wouldn't. Neither would my colleague, Congressman Reyes, from El Paso.

You still have time to salvage the good intention that started this process if you act now.

I would like your assurances today this process will come to an end somewhere, or else we are not going to see pipelines built anywhere in the country, because you can't delay decisionmaking.

The second project is MTBE, an oxygenate used in gasoline and produced in Texas, and the subject of much debate in Congress and in cities and towns across the country.

The administration suggests that Congress should reduce or eliminate the use of MTBE. Which one, the reduction or elimination, does the administration support?

How quickly should MTBE be phased out and when? Even more important for this committee, particularly, what does the administration propose in its place, and how much will it cost?

The administration, in its three-paragraph outline of its proposal, did not provide much in the way of details.

Again, this committee and the Health and Environment Subcommittee has spent a great deal of time on MTBE.

We know, both, the problems with it, but also the successes it has had since 1991.

I am hopeful that we will have time to explore the administration's proposal in greater detail today. Thank you, Mr. Chairman.

Mr. OXLEY. The gentleman yields back. The gentleman from Kentucky, Mr. Whitfield.

Mr. WHITFIELD. Mr. Chairman, thank you very much. I am delighted that we are having this joint committee hearing regarding EPA's appropriation request for fiscal year 2001.

I was listening to a radio program the other day, and they were talking about being a Member of Congress, that it helps if you have attention deficit disorder, because we very seldom have the opportunity to go into anything in any depth.

I am particularly thankful that we do have an opportunity with an Agency as important as EPA to have an hour or 2 hours to sit down and just go over and listen to their request for their appropriations, and the impact their programs have throughout the country.

So, I am delighted we are having this hearing, Mr. Chairman.

Mr. OXLEY. Thank you. The gentleman from Wisconsin has no opening statement.

The gentleman from Michigan, Mr. Upton.

Mr. UPTON. Thank you, Mr. Chairman. I am very interested in today's hearing.

I am looking forward to hearing primarily on three points.

One is the Agency's plan for reinstating the 1-hour air quality standards in light of the Court of Appeals remanding the new 8-hour standard.

Second, I would like to see discussed the Agency's significant and potentially costly proposed change in the total maximum daily loads and national pollutant discharge elimination permits under the Clean Water Act.

Third, I am interested in the Great Lakes Initiative that was included in the President's budget.

I haven't seen a lot of detail. I know it is \$50 million, and I want to make sure that it is well thought out.

I yield back the balance of my time so we can get started.

Mr. OXLEY. The gentleman yields back very briefly. Thank you. [Additional statements submitted for the record follow:]

PREPARED STATEMENT OF HON. CLIFF STEARNS, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF FLORIDA

Mr. Chairman, I am pleased that we are having this important hearing to allow Congress an opportunity to critique and express our concern with the EPA's budget request. I do have several problems with the EPA's budget.

One particular issue that I have a concern with is the EPA budget request of over \$4 million for the Water Environment Federation. This Federation deals with Class B biosolids or sludge, which in my opinion, pose a potential health threat. Class B biosolids were spread on 65 sites in my district last year. Can the EPA assure me that this was done properly? Can EPA assure me that the health of my constituents and drinking water will not be at risk because of the use of Class B biosolids? How many enforcement officers does EPA region 4 have to inspect and supervise the application of this sludge? If it is so important to give the Water Environment Federation over \$4 million dollars, then what exactly do they do? I do not believe that the proper research has been done to justify the usage of sludge, nor do I believe that the proper precautions are being taken in using sludge.

In fact, the Science Committee held a hearing last week regarding agency harassment of persons who disagreed with EPA sludge policy. At this hearing it was revealed that the agency's inspector general found the EPA's sludge policy could not insure public safety. Is the agency reevaluating that policy? When will the EPA stop mandating before studies are completed? Think of the MTBE crisis. We know that as early as 1988 that the EPA had some health concerns with MTBE, but they moved forward anyway. Why?

As a father, a Floridian and a Republican, I want to work to better the environment. But in order to this, we don't need more unfunded federal mandates and bigger bureaucracies as the EPA would have you believe. We need, instead, to give more power and flexibility to those closest to the problems, the States and localities. We need to strengthen existing provisions, crafting measures that work to better the environment, not measures that create more bureaucracies, impose costs and fees, and encourage endless litigation for trial lawyers.

The bottom line is that the EPA should not make a mess, and then rely on Congress to fund cleaning it up. Peer review and unbiased studies should be completed before any EPA mandate. I look forward to hearing from our witnesses and to hearing responses to the questions that I have raised.

PREPARED STATEMENT OF HON. PAUL GILLMOR, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF OHIO

Mr. Chairman, I would like to thank you for calling this hearing on the fiscal year 2001 budget for the Federal agency charged with protecting the health and safety of the public and many of our natural resources. I appreciate the opportunity to speak and look forward to the testimony of our witnesses.

Today marks the last time that the Clinton Administration will come before this committee to justify its funding requests for environmental protection. I, personally, find this to be an important exercise considering the length and depth that the U.S. EPA has inserted itself over the last seven years. It is essential that the Deputy Administrators before our panel give detailed accounts of how they wish Federal money to be spent and what the American taxpayer can expect to receive from it. While other body has expressed interest in an EPA authorization bill, an idea I find has real merit, I believe this is about as close as this committee will come to such an endeavor.

Protecting the health and safety of every American is a goal I know we all support. Over the last seven years, though, I have had grave concerns as to whether EPA was more concerned about fancy press opportunities and saving desk jobs than in placing more funding into actual environmental cleanup. Without belaboring the point, we are all well acquainted with the fact that numerous congressional studies have shown that EPA is spending less than 50 cents on the dollar from remedial

and removal actions under Superfund. Additionally, EPA's budget seeks \$59.3 million for Clean Air Act programs that are not authorized by Congress, and many of which are based on taxpayer-funded science that has never been released to this committee, even after repeated requests.

I am also concerned that this budget is last ditch effort to forge ahead on the goals of the Administration's political allies, regardless of the merits or the science. As Vice Chairman of the Commerce Committee, it concerns me greatly that after almost 60 days; the EPA cannot come up with basic answers on the agency's plans with regard to sound scientific assessments of its programs. Also, while MTBE is contaminating the groundwater of wells across this country, EPA is bent upon playing politics in California and having the Federal government—and many North-eastern States—sue electric power plants in the Midwest. This would not be so maddening except the Federal courts are ruling against EPA. It is time to stop lawsuits and regulatory actions, and start working cooperatively with Congress, the states, and local groups to make environment protection a goal worth having.

Mr. Chairman, I have concerns about other aspects of EPA's budget, like its plans to implement the Food Quality Protection Act. I am concerned that some of the planned cancellations are borne more out exacting pain on minor crop farmers who have little clout, than on larger more politically active producers. Congress must know how EPA is using this money and what it will mean for the future of production agriculture and the safety of fresh and processed foods.

Again, Mr. Chairman, I thank you for this chance to speak. I have long believed that in an era of finite resources available for environmental protection—be they Federal, state, local, or private, it is clearly anti-environment to put lots of money into programs that only minimally protect people while other more pressing problems go unappraised due to lack of funding. I anxiously wait to hear if EPA will put its money where its mouth is when it comes to reasonably protecting the health and safety of all Americans.

PREPARED STATEMENT OF HON. TOM BLILEY, CHAIRMAN, COMMITTEE ON COMMERCE

Good Morning. Thank you Chairman Oxley and Chairman Bilirakis for calling this joint Subcommittee hearing to review the Environmental Protection Agency's Fiscal Year 2001 Budget Request. Although I am disappointed the Administrator did not join us today, I am pleased to have the opportunity to address the senior Agency officials for EPA programs that fall within the Committee's jurisdiction, and I welcome them here today.

I will be brief, but I want to mention a couple of matters that I hope we can address today. First, I want EPA to focus its energy on its core mandates. In my view, "mission creep" has, for some time, been a principal nemesis of EPA. As the Agency's budget has grown to a 9.5 billion dollar request, EPA has gone beyond its core mandates by spawning boutique programs and initiatives with questionable long-term value and impact. For instance, the Agency has yet to provide me with an explanation for why it has identified "international brownfields" as a key program, much less tell me what it believes an "international brownfield" is. I have concerns that dozens of initiatives like these are diverting resources away from EPA's existing statutory obligations and thus away from our national priorities for environmental protection.

This failure to focus on core mandates was clearly evident in the findings of the Committee staff report that I released last week demonstrating in great detail how EPA ignored evidence for many years that diesel engines were emitting millions of tons of excess pollution. EPA failed to enforce the law, as well as its own regulations, and the American people paid the price in the form of 12 million tons of excess pollution.

Second, I believe the Agency must re-double its efforts to address fundamental management concerns. According to the General Accounting Office and EPA's Inspector General, EPA continues to have management problems that have hurt its effectiveness. Last month, GAO found lax computer security at EPA, the result of years of neglect by EPA despite repeated warnings and calls for action. While I am pleased that EPA has been working diligently for several weeks to address these problems, I am distressed that it took this Committee's aggressive oversight to spur EPA action. Without aggressive oversight, I am convinced the agency would not be correcting its security problems.

In addition, this month, GAO issued a report that shows that rather than reducing paper work by 25% by 1998 in accordance with the Paperwork Reduction Act of 1995, EPA is actually expanding that burden on businesses to over 119 million

“burden hours” as of 1998. Excessive paperwork, poor computer security, and high overhead do not protect the environment.

I appreciate the opportunity to share my views with the Agency and look forward to working with EPA officials to address specific issues of concern. I hope the Agency will work with the Congress to focus its mission on core mandates for environmental protection and to address its broader management and security problems. Thank you, Mr. Chairman.

Mr. OXLEY. I would now like to recognize our panel today. I understand Mr. Perciasepe, the Assistant Administrator for the Office of Air and Radiation, will present the Agency’s prepared statement this morning.

Welcome. Mr. Perciasepe, before you begin, let me briefly recognize your colleagues that have joined you at the witness table today.

We have Chuck Fox, Assistant Administrator, Office of Water; Steve Herman, Assistant Administrator, Office of Enforcement and Compliance Assurance; Susan H. Wayland, Acting Assistant Administrator, Office of Prevention, Pesticides, and Toxic Substances; Tim Fields—an old friend from our Committee—Assistant Administrator, Office of Solid Waste and Emergency Response, who I understand will be making an appearance later—he is over on the Senate side; Norine Noonan, Assistant Administrator, Office of Research and Development; and Margaret Schneider, Deputy Associate Administrator, Office of Environmental Information.

Mr. Perciasepe, you may begin. Again, welcome to both the subcommittee’s jurisdiction.

STATEMENT ROBERT PERCIASEPE, ASSISTANT ADMINISTRATOR, OFFICE OF AIR AND RADIATION, ACCOMPANIED BY TIMOTHY FIELDS, JR. ASSISTANT ADMINISTRATOR OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE, J. CHARLES FOX, ASSISTANT ADMINISTRATOR, OFFICE OF WATER, STEVE HERMAN, ASSISTANT ADMINISTRATOR, OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE, AND NORINE NOONAN, ASSISTANT ADMINISTRATOR, OFFICE OF RESEARCH AND DEVELOPMENT, ENVIRONMENTAL PROTECTION AGENCY

Mr. PERCIASEPE. Both Mr. Chairmens, plural, thank you very much for the introduction, and, the rest of the committee, thank you.

As you pointed out, Mr. Chairman, I am going to make an opening statement for the group, so we can just have one opening statement.

Mr. OXLEY. Too bad we couldn’t do it up on this side, but it just never works that way, so thank you.

Mr. PERCIASEPE. Maybe you guys can work on that.

You mentioned Tim Fields.

I would like to point out, sitting in for him, or pinch-hitting until he gets here, is Mike Shapiro, his Deputy, who may get some of the questions.

I just want to recognize them up front. There is Mike Ryan, who is the Acting Chief Financial Officer. Would you raise your hand?

I might say that we look forward to working with you on the review of the budget process and with the other members of the subcommittee on the many issues that they have brought up.

I do believe we have a productive working relationship that has enabled us to work toward the mutual goal of protecting public health and the environment.

Together, we have a great opportunity to work in partnership to provide the American public with strong public health and environmental protections that they want and that they deserve.

The budget we are putting forward achieves that goal. The President has presented a budget that maintains fiscal discipline while making essential investment in environmental priorities.

The administration has repeatedly demonstrated that we can enjoy enormous prosperity, including the longest economic expansion in history while aggressively cleaning up the Nation's air, water, and land.

Over the past 7 years of unprecedented economic progress, we have been working with this committee.

We have both distinguished ourselves through unprecedented environmental progress, and we have done it through common-sense, cost-effective measures that emphasize partnerships and cooperation with business, States, and local governments.

The 1996 amendments to the Safe Drinking Water Act are an example of what we can do together.

We supplied the first ever funding, a \$3.6 billion loan program for communities to upgrade drinking water systems.

We set up the first public right to know program for ensuring that all consumers of tap water know the source and the quality of that water.

We have announced new measures to protect the health of 140 million Americans by strengthening protections from emerging threats like cryptosporidium.

As a result of these efforts, 89 percent of Americans now get tap water from drinking water systems that meet health standards.

We have tripled the pace of cleaning up toxic waste under Superfund.

At the end of 1999, a total of 670 Superfund sites have been cleaned up; 515 of these sites were completed since 1993.

We have taken important steps to reduce emissions from automobiles and small trucks by up to 95 percent and, for the first time, ensure that sport utility vehicles, minivans, and light-duty trucks meet the same standards as passenger vehicles.

We have required reduced sulphur levels in gasoline, and we have cut toxic air pollution from municipal combustors and other important source categories by more than 90 percent.

We have unveiled new efforts to improve air quality in 156 national park and wilderness areas.

As a result of these efforts, some 43 million more Americans today are breathing cleaner air.

At the same time, we have dramatically increased the public's right to know about toxic chemicals released into their communities.

The Clinton-Gore Administration has nearly doubled the number of chemicals that must be reported to communities and required over 6000 new facilities to report release of toxic emissions.

As a result of the past decade, toxic pollution has fallen by nearly 50 percent.

We have revitalized communities by accelerating the clean-up of Brownfields, abandoned or contaminated property that can be put back into commercial use.

Communities across America are gaining new hope with nearly \$70 million in seed grants awarded to over 300 Brownfields projects.

These projects have leveraged more than \$2 billion in new investments and created thousands of jobs, expanding the tax base for local communities and bringing decayed areas of cities back to vibrant use.

Working with Congress, we have passed a new Food Quality Protection Act, that, for the first time, sets pesticide safety standards that are protective of children.

We have recently taken action to reduce significantly the special risks posed to children by eliminating the use of two pesticides most widely used on foods found in the diets of children.

While ensuring strong environmental protection, we have re-invented government in innovative ways to achieve greater environmental results at less cost.

We have vigorously pursued common-sense, cost-effective solutions to today's environmental problems.

The President's new budget, which requests \$7.3 billion for EPA and \$2.2 billion for the Better America Bonds program builds and continues 7 years of environmental achievement under the Clinton-Gore Administration.

The budget provides an 11 percent increase for EPA's core programs for air, water quality, drinking water quality, food safety, scientific research, and enforcement.

The administration's request provides for such programs such as President Clinton's Clean Water Action Plan designed to finish the job of cleaning up America's waters and restoring to full use the magnificent lakes, rivers, and bays of this country.

It provides for a new initiative to protect and improve one of the Nation's greatest shared treasures, the Great Lakes.

It provides for the President's program for cleaner waters across America, which, for the first time, targets individual waterways for clean-up plans tailored specifically to their needs.

It provides new funding to protect our waterways from polluted run-off, the largest remaining threat to America's water quality and gives the States the flexibility they need to address this threat allowing up to 19 percent of the clean water revolving fund to be used for this critical goal.

The President's budget provides the necessary funding for one of the Nation's top environmental priorities, protecting children's health, including targeting such special threats to children as lead contamination, air pollution that contributes to asthma, and dangerous levels of pesticide residues in foods.

The President's budget also provides for a creative clean air partnership fund. The partnership fund promotes early reductions in air pollution.

It fosters partnerships and flexibility between State and local governments in order to encourage new ideas for improving air quality that are custom-built by and for local communities.

This budget calls for continuing to expand the public's right to know, including a new effort to develop a network for key environmental data with our State partners.

That new network will be aimed at ensuring data quality, achieving reductions in reporting burdens, and enhancing public access.

The budget calls for continuing our success in cleaning up the Nation's worst toxic sites.

It calls for investing in our highly successful Brownfields program so that more communities can work together to create jobs and put abandoned properties back to work.

The budget again calls for making our communities more livable through Better America Bonds.

The administration is proposing this innovative financial tool to give communities resources they need to make their own decisions about preserving green spaces, addressing water pollution concerns, and promoting attractive settings for economic development.

In conclusion, Mr. Chairmen, plural, this budget builds on 7 years of proven success.

It builds on 7 years of developing the kind of programs that the American public wants.

It is a budget that will build strong American communities through partnerships and cooperation through tough health standards and through innovative, flexible strategies.

It is a budget that will ensure a strong economy and a healthy environment for this country.

We look forward to working with you, and we will be happy to answer any of your questions.

[The prepared statement of Robert Perciasepe follows:]

PREPARED STATEMENT OF ROBERT PERCIASEPE, ASSISTANT ADMINISTRATOR FOR AIR AND RADIATION, U.S. ENVIRONMENTAL PROTECTION AGENCY

Chairman Oxley, Chairman Bilirakis and Members of the Subcommittees, I am pleased to be here today to present the Clinton-Gore Administration's FY 2001 budget request for the Environmental Protection Agency (EPA). I am joined today by Assistant Administrators for major programs in the Environmental Protection Agency. We appreciate the opportunity to discuss the FY 2001 request for our respective programs, present an overview of the accomplishments of these programs, and respond to questions.

I speak for all of my colleagues today when I express my thanks to your two Subcommittees for working with our respective Program Offices over the years. While we may not have agreed on every issue and policy, we know that the members of the Subcommittees do share our goal of protecting the public health and the environment.

EPA's \$7.3 billion request, and the \$2.15 billion Better America Bonds program, continue and strengthen the Administration's commitment to the environment and public health by providing our nation's families and communities with cleaner water, cleaner air and an improved quality of life.

The Clinton-Gore budget protects the health and the environment of the American public. Last year, however, Congress "earmarked" from EPA's budget some \$470 million for more than 320 special projects in individual congressional districts. These earmarks direct money from the Agency's core programs—the very programs that keep the environmental cops on the beat, use the best science to set standards to protect our children, and support the work of our partners, the states, tribes and local governments. That is why we are not carrying forward last year's earmarks, and that is why we will continue this year to oppose earmarks.

We also remain strongly opposed to any legislative riders that undermine our country's basic environmental laws. Our goal is to work with this Committee, and others in Congress with jurisdiction over this country's environmental laws, to provide real protections for the Nation. I strongly believe that the authorizing commit-

tees, the traditional forum for discussing these issues, should again guide the process.

By providing our children and our communities with cleaner air, cleaner water and an improved quality of life, this budget maintains the Administration's dedication to the protection of public health and the environment. This budget ensures that the EPA will aggressively build on seven years of unprecedented environmental progress accomplished during the Clinton-Gore Administration.

Over the past seven years of unprecedented economic progress, this Administration, working with Congress, has distinguished itself through unprecedented environmental progress. While each of my colleagues present today will discuss the specifics of their FY 2001 budgets, as well as accomplishments, new investments, and long-term goals, I would like to highlight some of these areas.

Office of Air and Radiation

In 1990, Congress passed the Clean Air Act Amendments with overwhelming support, setting ambitious air pollution reduction goals. Since then, we have achieved unprecedented success in cleaning our nation's air and protecting public health. We have achieved these successes through rulemakings, voluntary measures, market mechanisms, state partnerships, and stakeholder negotiations.

From 1970 to 1997, U.S. Gross Domestic Product has grown by 114 percent, the U.S. population by 31 percent, and the number of miles traveled by on-road vehicles (VMT) by 127 percent. Yet, the aggregate emissions of criteria pollutants—ozone precursors, particulate matter, carbon monoxide, sulfur dioxide and lead—are down 31 percent. Emissions are down significantly for each of these pollutants except for nitrogen oxides (NO_x), which have increased somewhat. Lead emissions have been cut 98 percent. Most of these declines in emissions can be attributed to implementation of the Clean Air Act. A few prominent examples of Clean Air Act successes since 1990 include the following:

- In the Acid Rain program, electric utilities have reduced sulfur dioxide (SO₂) emissions by 22%, or 3.5 million tons, and have cut rainfall acidity in the East by up to 25%.
- The U.S. and other developed countries have phased out production of many of the chemicals most harmful to the stratospheric ozone layer, including CFCs. We have estimated that, once completed, the worldwide phase out will prevent approximately 295 million skin cancers in the U.S. through 2075.
- The air in our cities is cleaner than it has been in a long time. Nationally, average air quality levels have improved for all five of six common pollutants subject to air quality standards. There have been dramatic reductions in the number of areas violating these standards.
- Through our voluntary climate change programs, the American people have enjoyed a significant return on their investment. For every dollar spent by EPA on its voluntary energy efficiency programs, the private sector and consumers have been encouraged to invest more than \$15.00 in new more efficient technologies; businesses and consumers have saved over \$70.00; and greenhouse gases have been reduced by more than half a ton of carbon equivalent.

FY 2001 Budget Request: The Office of Air and Radiation is requesting a total of \$831 million for FY 2001. Of that total, \$308 million is for grants to states, tribes and localities. \$523 million is for the operating programs.

EPA is also requesting funding in FY 2001 for the Clean Air Partnership Fund. This is a priority for the Administration. We proposed the Fund for the first time last year and we still believe it provides an innovative, yet common sense approach for speeding reductions in pollution. The President's Budget requests \$85 million for the Partnership Fund. The Fund will support demonstration projects by cities, states and tribes that (1) control multiple air pollution problems simultaneously; (2) leverage the original federal funds; (3) facilitate meaningful public involvement, and (4) provide examples that can be replicated across the country. By stimulating innovative technology and policies, the Clean Air Partnership Fund will help communities provide clean, healthful air to local citizens.

To address global warming, the Administration is requesting \$227 million. We are proposing an increase of \$124 million above the FY 2000 enacted budget for the third year of the Climate Change Technology Initiative. Under this budget, EPA will expand its partnership efforts with businesses, organizations, and consumers to achieve greenhouse gas reductions by taking advantage of the many opportunities to reduce pollution and energy bills by fostering energy efficient programs, products, technologies, and cost-effective renewable energy. As a result of work already under way, EPA efforts with FY 2001 funding will:

- Reduce greenhouse gas emissions annually by over 66 million metric tons on carbon equivalent, offsetting about 20% of the growth in greenhouse gas emissions above 1990 levels;
- Reduce other forms of pollution, including reducing NO_x emissions by about 170,000 tons;
- Contribute to developing a new generation of efficient and low-polluting cars and trucks.

The opportunity to save on our nation's \$500 billion annual energy bill over the next decade while reducing air pollution is tremendous. The opportunity to reduce greenhouse gas emissions is also large. We currently expect that more than half of the nation's greenhouse gas emissions in 2010 will come from equipment that will be purchased over the next ten years. We should not forgo this opportunity by not funding expanded energy efficiency programs.

For air toxics, we are requesting \$23 million, an increase of \$6.6 million over FY 2000 operating plan levels, to address the final round of MACT standards by the May 2002 "hammer date"—the date by which states must determine controls for such sources if EPA has not acted.

The request for the Montreal Protocol Fund totals \$21 million, an increase of \$9 million over the FY 2000 enacted level. The funding to the Protocol is dedicated to paying our dues to the fund and to reduce accumulated arrearage.

To strengthen our relationships with our state and tribal partners, this budget provides \$215 million in state and tribal grants to help implement solutions to air pollution problems locally. Of these resources, a \$5 million increase will be targeted to regional planning bodies to combat the problem of regional haze—one of the most obvious effects of air pollution. Additionally, \$8 million is provided to our state and tribal partners to design, implement, and maintain radon programs.

Office of Water

EPA is in its 4th full year of implementation of the 1996 Safe Drinking Water Act Amendments, and we are very proud of the progress we have made in meeting the ambitious agenda laid out in the Act to ensure safe drinking water and protect public health. Substantial achievements have been made in terms of establishing protective, scientifically sound standards, promoting source water protection as an integral part of a comprehensive drinking water program, fostering the consumer's right-to-know, and increasing funding to states and communities. Among the examples are:

- Promulgation of two health-based regulations that: 1) strengthen efforts directed to microbial contaminants and protect Americans from waterborne pathogens, such as cryptosporidium, and 2) address health risks associated with the by-products of chemical disinfection.
- Implementation of the Drinking Water State Revolving Fund (DWSRF) and expeditious actions by the states to award loans to local communities to build and upgrade their drinking water facilities. To date, so far, Congress has provided \$3.6 billion in funding for the Drinking Water SRF program.
- We expect shortly that states will make their 1,000th loan under the DWSRF, representing nearly \$2 billion in loan assistance to local communities. By the end of FY 2001, we expect that 1,800 loans will have been made and some 450 SRF-funded projects will have initiated operations.

While our successes are indeed noteworthy, significant challenges lie before us as the drinking water community—EPA, the states and localities, drinking water systems and stakeholders—strive to address and implement the remaining requirements of the SDWA amendments. For EPA, the most pressing long-term activities are to:

- Make regulatory determinations on the first Contaminant Candidate List (CCL)—August 2001.
- Issue a second regulation on byproducts of chemical disinfection—May 2002.
- Review more than 80 existing National Primary Drinking Water Regulations—August 2002.
- Develop the second Contaminant Candidate List (CCL2)—August 2003.
- Compile and maintain complete, accurate, and timely data in the Safe Drinking Water Information System on states' implementation and compliance with existing and new regulations.

To meet these regulatory requirements, EPA must make sure that there is a solid scientific underpinning for setting new drinking water standards for contaminants identified on the Contaminant Candidate List that was issued in 1998, for controlling disinfection by-products, for reviewing and revising regulations for contaminants that are already being regulated, and for developing the CCL that is to be published in 2003.

FY 2001 Budget Request: A critical concern is to balance these research needs over the next several years to ensure that we have the science necessary to make sound regulatory decisions. To help address this need, the Agency is requesting an additional \$5 million for drinking water research, especially for research on CCL contaminants.

The States face the daunting task of: 1) adopting new regulations (more than ten by the end of 2000) that have been issued as well as maintaining compliance with existing regulations, and, 2) reporting comprehensive, accurate and timely data to the Safe Drinking Water Information System. To support the States in these activities, the FY 2001 President's budget includes a request of \$93 million for Public Water System Supervision (PWSS) grants to States. To address drinking water infrastructure needs, \$825 million is requested for the Drinking Water SRF, a **\$5 million increase** above the FY 2000 levels.

Office of Solid Waste and Emergency Response

The Superfund, Brownfields, Resource Conservation and Recovery Act (RCRA), Underground Storage Tank, Chemical Emergency Preparedness and Prevention, and Oil programs share an important common goal of ensuring that America's wastes will be managed and remediated in ways that prevent harm to people and to the environment. These programs directly support the Administration's efforts to build strong and healthy communities for the 21st Century.

FY 2001 Budget Request: The Administration is requesting \$1.45 billion in discretionary budget authority and \$150 million in mandatory budget authority for fiscal year 2001 in support of the Superfund program to clean up the Nation's most serious hazardous waste sites. The Superfund program will continue to emphasize the completion of construction at NPL sites and the use of removal actions to protect human health and the environment. The President's goal of 900 construction completions is still on schedule to be achieved by the end of fiscal year 2002. Through three rounds of Administrative Reforms, the Administration has been successful in achieving a fairer, more effective, and more efficient Superfund program. More than three times as many NPL sites have had completed construction in the past seven years than in the prior twelve years of the program. Approximately 90% sites on the NPL now are either undergoing cleanup construction (remedial or removal) or are completed, and approximately 6,000 removal actions have been taken at hazardous waste sites to immediately reduce the threat to public health and the environment.

The Agency is requesting \$91.7 million in fiscal year 2001 to continue implementation of the successful Brownfields Initiative. EPA's Brownfields Initiative, announced by Administrator Browner in 1995, serves as a catalyst to empower states, local governments, communities, and other stakeholders interested in environmental cleanup and economic redevelopment to work together in preventing, assessing, safely cleaning up, and reusing hundreds of thousands of abandoned, idled, or under-used industrial and commercial properties (brownfields). To date, EPA has awarded 307 assessment pilots to local communities. These pilots have resulted in the assessment of 1,687 brownfields properties, generated nearly 6,000 cleanup and redevelopment jobs, and leveraged over \$1.8 billion. Beyond assessment, EPA has awarded 68 Brownfields Cleanup Revolving Loan Fund (BCRLF) pilots representing 88 communities to enable eligible states, tribes and political subdivisions to capitalize revolving loan funds for use in the cleanup and sustainable reuse of brownfields. Further, EPA and its federal partners have named 16 Brownfields Showcase Communities to serve as national models demonstrating the benefits of collaborative activity to clean up and redevelop brownfields. EPA also has awarded 21 Job Training Pilots to community-based organizations, community colleges, universities, states, tribes, political subdivisions and non-profit groups.

The Administration is requesting \$224 million to support the RCRA program in FY 2001. The RCRA program protects human health and the environment from hazardous wastes by: reducing or eliminating the amount of waste generated; encouraging waste recycling and recovery; ensuring that wastes are managed in an environmental safe manner; and cleaning up contamination resulting from past mismanagement of industrial wastes. The RCRA program is predominantly implemented by authorized states, and one of the Agency's highest priorities continues to be providing funding and assistance to state programs, and working with states to remove any federal barriers to making progress in state solid and hazardous waste programs.

EPA will continue to provide leadership, technical assistance and support for recycling and source reduction through voluntary programs such as our WasteWise and Jobs Through Recycling programs. In 1998, the fifth year of the program, WasteWise partners reduced over 7.7 million tons of waste through prevention and

recycling. Under RCRA Corrective Action, the focus is on environmental goals at over 1,700 high priority facilities. In July of 1999, EPA announced a series of RCRA reforms that are already producing faster and more flexible cleanup actions. Specifically, the cleanup reforms reduce impediments to achieving effective and timely cleanups, enhance state and stakeholder involvement, and encourage innovative approaches. The Administration's fiscal year 2001 request includes additional resources that are absolutely necessary to implement these reforms, and to stay on track to meet the goals.

The Agency is requesting \$87.3 million in fiscal year 2001 to support the Underground Storage Tank (UST) and Leaking Underground Storage Tank (LUST) programs. EPA and states have made significant progress in addressing the UST problem. Since the inception of the UST program in the late 1980's, more than 1.3 million substandard USTs have been closed. EPA will continue to work with the States to increase the compliance rate with the spill, overfill, and corrosion (1998 upgrade requirements) portion of the regulations. EPA also will continue to work with the States to improve the compliance rate with the leak detection requirements. One of EPA's highest priorities for FY 2001 is, in conjunction with the states, to undertake a major multi-year effort to increase owners' and operators' compliance rates with the leak detection requirements.

Office of Enforcement and Compliance Assurance

EPA has fundamentally changed the Agency's compliance program to achieve better public health and environmental results. The basis of this program is a strong, well-targeted enforcement program that addresses very serious environmental violations. It is complimented by an equally strong compliance assistance and incentives program directed toward achieving greater compliance. This system of carrots and sticks has served us well and we believe it will continue to serve us well in the future.

I would like to share the results of these improvements to this program. Over the past four years, EPA has required reductions in emissions of nearly 5.9 billion pounds of NOx, over 700 million pounds of PCB-contaminated material, and over 409 million pounds of CO. These actions have resulted in more than \$479 million in environmental improvements from supplemental environmental projects; \$8.7 billion (including \$2.7 billion in superfund) in environmental cleanups, installations of pollution control equipment, and improved monitoring; and \$849 million in fines.

OECA has also built an excellent compliance assistance program. Many in the regulated community, particularly small businesses and small communities, need assistance to comply with the law. EPA has ten compliance assistance centers on the Internet that are being visited over 700 times a day. In FY 1999, these centers were visited about 260,000 times. In addition, in FY 1999, compliance assistance activities and tools—seminars, on-site assistance, mailings and handouts—reached about 330,000 entities.

Though OECA has accomplished a lot to date, our compliance assistance program is not yet complete. Last year, the compliance assistance program worked with its stakeholders to identify remaining needs, and issued an action plan in January, 2000. A cornerstone of that plan involves the enrichment of OECA's compliance assistance program. We are in a unique position to deliver compliance assistance materials to a wide audience, including compliance assistance providers who work directly with the regulated community. In effect, EPA will take on more of a "wholesaler" role in the delivery of compliance assistance. Among other things, we will continue to create tools, such as compliance guides and Internet assistance centers. OECA is also developing a compliance assistance clearinghouse, a searchable web site that will give users access to compliance assistance materials developed by EPA, states, trade associations, and other assistance providers.

In the last few years, OECA has also put in place incentives for those who want to self-police and discover and disclose environmental violations. Many responsible companies are using the EPA's Self-Disclosure Policy. To date, almost 700 companies have disclosed violations at over 2700 facilities. Companies like GTE and American Airlines have recognized the benefit of the Self-Disclosure Policy by making multi-facility, multi-state disclosures. As a result of an initiative with the telecommunications industry that stemmed from the GTE disclosure, environmental violations have been corrected at 750 telecommunication facilities.

Finally, OECA has made ground-breaking progress in measuring the outcomes of performance. With input from the States, we developed state of the art methods to measure the impact of our enforcement and compliance activities. Beginning this year, these measures will, among other things, give this office a better understanding of significant noncompliance by high priority facilities and the improvements that result from compliance assistance.

FY 2001 Budget Request: To maintain this progress in Fiscal Year 2001, EPA has requested a total of \$474 million and 3,540 workyears for the Office of Enforcement and Compliance Assurance.

Of the amount requested, \$177 million and 1,137 workyears are from the Superfund Trust Fund to ensure that the parties responsible for contamination at Superfund sites continue to do the majority of the cleanups. EPA's "Enforcement First" strategy has resulted in responsible parties performing or paying for more than 70% of long-term cleanups since 1991, thereby conserving the Superfund Trust Fund for sites for which there are no viable or liable responsible parties. This approach has saved taxpayers more than \$16 billion to date—more than \$13 billion in response settlements and nearly \$2.5 billion in cost recovery settlements.

Another portion of the request, \$27 million, is to provide grants directly to States and Tribes to carry out pesticides and toxic substances enforcement programs. The State and Tribal grant programs are designed to build environmental partnerships with States and Tribes and to strengthen their ability to address environmental and public health threats. These threats include contaminated drinking water, pesticides in food, hazardous waste, toxic substances and air pollution. The program will award more than \$25 million in State and Tribal enforcement grants in 2001 to assist in the implementation of the enforcement provisions of the Toxic Substances Control Act (TSCA) and the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). These grants support state and tribal compliance activities to protect the environment from harmful chemicals and pesticides.

The bulk of the resource request provides the essential monies needed to continue the work that is being discussed today. This work includes inspections and monitoring, criminal and civil enforcement and training, compliance assistance, and compliance incentives. It also includes OECA's work in environmental justice, and our review of environmental impact statements and environmental assessments under the National Environmental Policy Act.

Office of Pollution, Prevention and Toxic Substances

Through the Office of Prevention, Pesticides and Toxic Substances, EPA is making substantial new investments in programs implementing the Food Quality Protection Act of 1996 (FQPA) as well as the Toxic Substances Control Act. FQPA brought comprehensive reform to our nation's pesticide and food safety laws—setting in motion many fundamental changes in our approach to protecting human health and the environment from risks associated with pesticide use. FQPA focuses on the registration of reduced risk pesticides to provide an alternative to the older versions on the market, and on developing and delivering information on alternative pesticides/techniques and best pest control practices to pesticide users. Under the Toxic Substances Controls Act, EPA identifies and controls unreasonable risks associated with chemicals.

Meeting FQPA's immediate and more stringent requirements for a single, health-based safety standard for new and existing pesticides, while also maintaining momentum for bringing new biologicals and safer products to market, has been an extraordinary challenge. EPA's activities have been guided by four principles: using sound science in protecting public health, developing a sufficiently transparent implementation process, providing a process for the reasonable transition of agriculture to new pest management strategies, and maintaining open consultation with the public and other agencies. EPA will continue to work closely with our federal, state and tribal partners, as well as with our many public stakeholders to seek guidance and meaningful public involvement in FQPA implementation activities.

Since enactment of FQPA, EPA has registered 89 new pesticide active ingredients, 56 of which are considered "safer" than conventional pesticides. FQPA also requires EPA to reassess all 9721 pesticide tolerances and tolerance exemptions that were in effect when the law was passed. As required by FQPA, EPA reassessed 3,290 tolerances by July 30, 1999, surpassing the 33% goal for August 1999.

FY 2001 Budget Request: EPA will address serious deficiencies in the availability of basic health and environmental hazard information for chemicals manufactured in, or imported into the United States in amounts greater than one million pounds per year. EPA will continue to invest in the High Production Volume (HPV) Challenge Program, which will provide information on over 2000 chemicals through a voluntary program with over 435 company partners. In addition, the 2001 request includes \$75 million to help meet the multiple challenges on the implementation of FQPA so that all Americans will continue to enjoy one of the safest, most abundant, and most affordable food supplies in the world. In 2001 EPA will:

- Reassess an additional 1,200 of the 9,721 existing pesticide tolerances to ensure that they meet the statutory standard of "reasonable certainty of no harm."

Support for tolerance reassessments will reduce the risks to public health from older pesticides.

- Complete reassessment of a cumulative 66 percent (560) of the 848 tolerances of special concern in protecting the health of children.
- Help farmers improve their pest management strategies through the Regional Strategic Agricultural Partnerships Initiative, and the Pesticide Environmental Stewardship Program.

Office of Environmental Information

The unprecedented change in information technology and the burgeoning public thirst for information have radically altered the information landscape in the course of just a few years. Just this past October, our Agency finalized a major reorganization aimed at consolidating and enhancing EPA's management of environmental information. This reorganization brings together in one organization various functions related to the collection, management, and use of EPA's information by the Agency, its State and Tribal partners, and the public. The creation of the Office of Environmental Information (OEI) resulted from Administrator Browner's view that information is an essential resource for environmental decision-making. This new centralized focus on information, under the leadership of an Assistant Administrator, adds additional authority to the Agency's Chief Information Officer position, and enables the Agency to provide better guidance and oversight of data integrity and quality issues. In response, EPA has taken major steps to improve and enhance its environmental information capabilities and its overall approach to information.

Our new Office of Environmental Information (OEI) is the first federal agency to recognize the critical inter-dependencies between the information the Agency collects and disseminates, and the policy and technology needed to support and secure it. The FY 2001 budget request of \$168M for OEI will support efforts to improve how the Agency collects, manages, integrates and provides access to environmental information.

Working with State and Tribal partners and stakeholders, OEI is striving to make data more useful and understandable for informing decisions, improve information management, reducing reporting burdens, measuring success, and enhancing public access. The Agency has seen the value of putting information in the hands of the American people, as their increased knowledge becomes a force for protecting public health and the environment. We have provided communities with increased access to more information about pollutants released into their communities by greatly expanding the public's right-to-know. Access to environmental information has led to creative and sustainable solutions to environmental risks and opportunities for preventing pollution.

The President's budget continues to enhance the public's right-to-know about environmental emissions in their local communities through several initiatives. One of the new efforts represents a fundamentally new approach to ensuring the efficient collection and management and broad public dissemination of high quality environmental data. Under the Information Integration Initiative, the Administration will work with the States to develop one of the Nation's greatest sources of shared environmental information. We are also stepping up our efforts to assure data accuracy, stakeholder involvement, information security, and information dissemination while balancing public interest in these emerging areas of public policy.

Office of Research and Development

The Agency's key priorities of clean air, clean water, healthy children, healthy ecosystems, and partnerships with stakeholders provide the structure for the Agency's ORD budget request for FY 2001. Over the last five years, ORD has undertaken an ambitious modernization and streamlining effort. We reorganized our National Laboratories and research portfolio along the Risk Assessment/Risk Management paradigm. We balanced our research activities across the two broad categories of Problem-Driven Research (to solve environmental problems of high risk and high scientific uncertainty) and Core Research (to improve the underlying scientific tools for understanding and protecting human health and the environment). We continue to enhance the linkages between these mutually reinforcing aspects of our scientific mission.

Recent work on an updated ORD Strategic Plan 2000 is reinforcing our organization's alignment around and attainment of our strategic goals. By planning our FY 2001 research program within the structure of EPA's Strategic Plan, we are ensuring that ORD's research program solidly supports EPA's National Program Offices. Our budget request will continue to assure that ORD will provide leading-edge science and engineering to support EPA's environmental decision-making.

Let me give you a few examples of the important research ORD is providing:

- ORD evaluated the overall ecological conditions of estuaries in the Gulf of Mexico, which are critical for commercial fisheries, wildlife habitat, and recreational opportunities. Results of this research (published in our report *Ecological Condition of the Estuaries in the Gulf of Mexico*) will assist resource managers and the public in focusing on solutions for the most serious problems.
- ORD established five Airborne Particulate Matter (PM) Research Centers to advance the understanding of the health effects of particulate matter by drawing upon the expertise of some of the nation's leading researchers outside of the federal government. The Centers were established via competitive grants awarded to universities through the Science to Achieve Results (STAR) program.
- An ORD scientist led the research that will support EPA decisions to protect lakes and streams from acid rain. The study examined trends in lake and stream recovery from acid rain in North America and Europe. The study, which was reported in *Nature*, involved investigators from nine countries, and found that recovery was occurring in some regions, with signs of likely recovery in others.

ORD effectively leverages the Nation's scientific resources by partnering with other Federal Agencies on the Committee on Environment and Natural Resources (CENR) and through our Science to Achieve Results (STAR) grants to scientists and engineers in universities and not-for-profit science organizations. Our partnerships are the result of multiple layers of careful integration that ensure that all external work complements and strengthens our in-house research. Partnering with Federal Agencies provides a common sense and cost-effective way for us to utilize the special expertise residing outside of our Agency, while also reducing overlapping and duplicative work.

ORD's FY 2001 budget request builds upon ORD's significant accomplishments, supports the Agency's mission, and provides the scientific and technical information that is essential for EPA to achieve its long-term goals. The research and development program outlined in this office's budget request reflects both ORD's highly effective in-house research program, and our efforts to partner and work with other research organizations. ORD is seeking \$107M in support of our Science to Achieve Results (STAR) grants program which leverages our research capabilities by tapping into expertise from the Nation's top academic and not-for-profit scientific organizations through a variety of competitive grants, investigator-initiated exploratory research awards, graduate fellowships and environmental research centers. Further, the office's long range program of hiring Postdoctoral scientists and engineers for three year appointments, boosts our state-of-the science expertise to ensure that we produce outstanding scientists and engineers in the field of environmental protection. ORD is focused on optimizing the delivery of timely RESULTS to our Agency customers, stakeholders, and the American public.

FY 2001 Budget Request: The Office of Research and Development's FY 2001 budget request supports the Agency's key priorities of clean air, clean water, healthy children, healthy ecosystems, and partnerships with stakeholders. The Agency's total FY 2001 request in the Science and Technology (S&T) account is **\$674.3** million and **2464** total work years, an increase of \$32 million and four work years from the FY 2000 enacted level. ORD's total FY 2001 request is **\$530** million and **1972** work years. Of this total, ORD's FY 2001 request in the **S&T** account is **\$492.5** million and 1848 work years. The Office of Research and Development's key research efforts will include:

- **Particulate Matter**—In 2001, EPA is requesting **\$65.3M** to support PM chronic epidemiology research to evaluate the role of chronic PM and co-pollutant exposure in producing death and disease, and to assess the most prominent PM health risks. This work continues to provide sound science in support of establishing NAAQS and builds upon an extensive network of ORD partnerships with other agencies under the auspices of the Committee on Environment and Natural Resources.
- **Drinking Water Research**—We are requesting **\$48.9M**, a \$5 million increase to support the Safe Drinking Water Act Amendments of 1996 which require EPA to publish a list of unregulated contaminants to aid in priority setting for the Agency's drinking water program. The existing Contaminant Candidate List (CCL) categorizes 60 chemicals and microbes where additional research in the areas of health effects, analytical methods and/or treatment is necessary to provide a sound scientific basis for regulatory decision making. This builds on important FY 2000 accomplishments in identifying drinking water disinfections byproducts and evaluating their relative toxicities.
- **Ecosystem Protection Research**—In requesting **\$106.1M** to continue our successful ecological assessment work in the Nation's coastal waters, we are increasing our understanding of their condition and how they can be protected. In particular, in 2001, we will focus attention on the second year of the Environ-

mental Monitoring and Assessment Program (EMAP) Western Pilot to sample estuaries, streams and rivers, and landscapes in 12 western states. We will also enter the second year of our Regional Vulnerability Assessment project to combine modeled projections of changes in stresses (e.g. pollution deposition, land use change) with information on sensitive ecosystems to identify the greatest environmental risks in the next 5-25 years.

Again, I am pleased to have presented the highlights of EPA's Fiscal Year 2001 budget request, and we appreciate this opportunity to appear before the Subcommittees to discuss these highlights indepth.

Mr. OXLEY. Thank you, Mr. Perciasepe. The Chair recognizes himself for 5 minutes for the first round of questions.

Mr. Shapiro, welcome. I understand you are filling in for Tim Fields, and we appreciate your being here.

As you know, EPA has repeatedly come before this committee and testified about the Superfund administrative reforms.

In testimony before our committee and almost every public release, the Agency has touted the success of these administrative reforms as the single most important reason why we don't need Superfund reform legislation.

I understand you grouped these reforms by the Agency in three tiers comprised of a total of 62 separate administrative reforms.

I have a series of questions I would like to ask you about that.

Has EPA quantified its expenditures on designing and implementing these reforms, and can the EPA provide such an estimate for each one of those reforms?

Mr. SHAPIRO. As far as I can tell, we have not separately identified budget line items associated with developing and implementing the reforms.

So, we would be unable to provide you with precise information about that.

We could obviously try to roughly approximate it; we have not kept the books in a way that would allow us to easily measure costs associated with each reform.

Mr. OXLEY. It is my understanding that EPA has reviewed its reforms, and, using the Agency's own definitions, EPA concluded that only 14 of the 62 reforms resulted in fundamental change to the operation of the Superfund program and produced measurable results.

Put in another way, according to EPA, 48 of the 62 Superfund administrative reforms either did not produce any measurable results or did not fundamentally change the Superfund program.

If this is the case, how can EPA claim these reforms have made such an impact on the program?

Why is it that the vast majority of these reforms have been so ineffective even though you constantly talked about how successful they have been?

Mr. SHAPIRO. I would like to make a couple of points in response to that.

First of all, I think, taken as a whole, we continue to believe that the administrative reforms have had an enormous impact on the Superfund program.

We have accelerated the rate at which we can bring sites through to completion.

As demonstrated by the statistics in the program, they have actually greatly accelerated our ability to achieve construction completions.

We have reduced the costs of achieving environmentally protective remedies, saving well over a billion dollars through using the best science and the best technology in our remedies and even going back and changing remedies when the situation warrants.

We have clearly made the program fairer, and I am sure Steve Herman has a lot to add on that if you would like to hear from him.

Again, overall, we think there is quite a good story to tell in terms of the impacts that the reforms overall have had on the program.

Not every reform is easily measurable, and, therefore, when we say we can't necessarily measure the success of the reform, that doesn't mean that the reform itself, as a piece of a whole series of actions to improve the program, has not been an important element.

Finally, even in those cases where we think work remains to be done, we think that, as in any activity where we are trying to continuously improve our program, the Superfund reform's effort was not intended to be a one-shot solution to improving the program.

We intend to learn from the experience in implementing the reforms and, where necessary, work harder to implement those reforms that have not fully worked out, as well as learn from both our own internal experience the experience of our stakeholders as to areas where we can continue to introduce new improvements into the program.

Mr. OXLEY. As you know, we have offered to put into the legislation those reforms that the EPA felt would work or that have worked.

We felt that, if they were so effective, that it would be important to put them into law.

But, in essence, we have been unable to connect those dots.

Let me ask you a question about the Superfund program. At the end of fiscal 1999, you claim that fully 92 percent of the sites are on the NPL list who are undergoing clean-up construction or were completed.

Even allowing for additions of new sites as projected by EPA, it appears clear that the future size of the NPL will be much smaller.

Does the Agency anticipate a significant reduction in the funding requirements to the program as it matures further?

Mr. SHAPIRO. We think, at this point, it is premature to speculate on the eventual size of the program.

But, certainly for the foreseeable future, the workload ahead of us in terms of the number of NPL sites that remain to be worked on, as well as the other very important responsibilities of the program, including responding to emergencies, cleaning up sites under our removal program, maintaining the integrity of remedies where we have to go back and doing periodic reviews is such that we are not, at this point, comfortable projecting a reduction or ramp-down in the size of the program.

There is, as you know, a very important study that has been chartered by Congress, being undertaken by Resources for the Fu-

ture, to look at, over a 10-year period, the projected costs of the program, both in completing current NPL sites as well as looking at other key components of the program.

Certainly, EPA has been cooperating fully with RFF in that endeavor.

We look forward to seeing the results of that work.

Mr. OXLEY. When do you expect to see those results?

Mr. SHAPIRO. My understanding is that it will go to Congress.

RFF is projecting that they will have a draft report available by the end of this year.

Mr. OXLEY. So you are asking for a billion and a half dollars for the program despite the fact that the EPA has consistently said that 92 percent of the sites were undergoing clean-up construction?

It just seemed, from our perspective in a budgetary perspective, somewhat of a disconnect, where EPA is talking about 92 percent in the pipeline being completed.

The program is obviously being ramped down, which I think is a positive thing.

Yet, it continues to ask for a billion and a half dollars in the face of what appears to be a rather effective ramp-down.

Mr. SHAPIRO. Again, even to achieve our goal of 900 construction completions by the year 2002, the \$1.45 billion, funding that the President has asked for, we believe is absolutely critical in order to maintain ongoing work at sites that are under construction but have more work to be done as well, as to begin this year, or rather 2001, work on additional sites that we will need to bring into completion in order to achieve those results.

So, our success to date and our projected success in the future in terms of bringing that 92 percent fully into construction completion depends very significantly on our ability to get the \$1.45 billion that the President has asked for.

Mr. OXLEY. My time is expired. Let me now recognize Co-Chair—the gentleman from Florida, Mr. Bilirakis.

Mr. BILIRAKIS. Thank you, Mr. Chairman. Mr. Shapiro, first, let me just say Mr. Markey, who gave his opening statement and left, very eloquently shared with us some of the successes, if you will, or credits, of the work of the EPA over the years.

I think we all certainly subscribe to that and feel EPA has done an awful lot of good things.

I would also say that, you know, we act laws up here, and quite often we eventually see them in practice.

As a result of these, we had a chemical site—and I am sorry Mr. Fields is not here, but I assume you are familiar with it.

I actually saw and am seeing constantly EPA in action, and I want to first say that they have been terrifically cooperative.

It has just been great to work with them, and I am really pleased, in general.

But—There is always a “but,” isn’t there? As you may know, they made certain recommendations in terms of clean-up.

It took getting the ombudsman down there to town meetings—a third one probably coming up—to determine that, in fact, they did not take into consideration the geology of the area.

Or, at least, they didn't adequately take into consideration the geology of the area—the geophysics, if you will, of the area, that sort of thing—an awful lot of sinkholes, you know, in that area.

I guess what I am saying is, rather than get to the details of all of that—because we have spent an awful lot of time together, and I am pleased to say that all parties seem to be willing to get together to kind of work out a new clean-up type of a process.

But, the role of the ombudsman—I was a member of the committee when we had the Clean Air Act.

You know, it was all cranked in there, and I guess that it is more of a word than anything else to all of us.

But, I have seen that role. You know, I am concerned. I said in my opening statement I am concerned that there seems to be maybe a reduction of funding toward that end.

I want to hear from you, and maybe from Mr. Perciasepe—which would be coming, I assume, from the Administrator herself—what you all consider the role of the ombudsman and what you think the future of the ombudsman's role would be, and what your intent might be regarding that role.

Mr. SHAPIRO. Thank you. Again, I don't necessary want to get into the details of the Stouffer Chemicals site.

There are a lot of different points of view there, and I know you have certainly spent a lot of time yourself personally at the hearings and with the ombudsman.

Speaking more generally about the ombudsman function, it is certainly one that the Agency views as important especially in the Superfund program and other hazardous waste programs because of the intense interest that communities have in these sites, and because of the fact that often there are legitimate differences in point of view.

Citizens feel like they need an independent outlet for voicing some of their concerns and pursuing evaluation of the Agency's actions.

So, the current Assistant Administrator, Tim Fields, as well as his predecessors, have maintained this important ombudsman function.

That function reports to the Assistant Administrator and is funded out of the funds that are appropriated for operation of OSWER programs.

There is no separate line item for the ombudsman, but, frankly, for the ombudsman and any staff that are supporting the ombudsman activities, it comes out of the budget that we use to operate the Assistant Administrator's office.

There has been no reduction in that in the President's proposal.

Certainly, our intent is to continue funding the ombudsman's activities at least at the level that we currently have them.

Mr. BILIRAKIS. Do you have those figures handy?

Mr. SHAPIRO. I don't have a separate break-out.

Mr. BILIRAKIS. You know what that means, of course?

Mr. SHAPIRO. But, we can certainly get an estimate. Right now, that would involve the salary for the ombudsman, and one individual that spends most of his time working with the ombudsman.

Mr. BILIRAKIS. Can you furnish us in writing the information regarding that?

I had other things here, but we have taken up the entire 5 minutes.

But, please furnish that information to us. I would like to know basically, not only the dollars specifically, but maybe extended out to the future in terms of the future role of the ombudsman, because I introduced legislation to make sure that that position will stay forward.

I would hope that EPA would support that. Thank you, Mr. Chairman.

[The following was received for the record:]

OSWER funds the National Ombudsman activities out of funds used to operate the Assistant Administrators's office. Funding for the past 2 years is shown below:

	FY99 (\$000)	FY00 (\$000)
Payroll	\$194.3	\$203.5
Travel	\$30.5	\$30.5
Grants/Contracts	\$29.8	\$62.4
Other	\$5.0	\$5.0
Total	\$259.6	\$301.4

It is OSWERs intention to continue funding the National Ombudsman function at the same level it has been funded in the past.

Mr. OXLEY. The time of the gentleman has expired. The gentleman from the Upper Peninsula.

Mr. STUPAK. Thank you, Mr. Chairman. The Director of the Office of Management and Budget has concluded that the Republican budget passed last week would cut next year's budget for most non-Defense programs by an average of 9 percent.

His letter identifies some of the devastating impacts on programs like Head Start, school repairs, and the hiring of new public school teachers.

However, today, I would like to ask each member of the panel to explain the impact of the Republican budget on the Environmental Protection Agency overall, and some of the important public health programs administered by the EPA.

I don't know who would want to start.

Mr. PERCIASEPE. We will start with the Chief Financial Officer on the general budget question.

Mr. RYAN. Yes, sir. If I could simply give a sense of scale for what this would mean briefly, in general, and then you can direct questions, as you mentioned, to individual members for specifics.

As we understand it, this 9 percent impact would apply to EPA.

Of course, that hasn't been determined yet with precision.

But, it would amount to about \$680 million. If we were to look at just, as a sense of scale as to what that means, that is—as I don't have to tell members of the committee—about half of everything we have for Superfund.

It would be 60 percent of what the grants we do for States and tribes in air and water programs.

It really is slightly more than what we have for all of our science and technology budget.

It would pretty much be a devastating blow. Obviously, we don't know how a new Administrator would take these cuts with precision.

We do know that we wouldn't think that anyone would logically take it from one place, but I offer these up just for a sense of scale.

But, even if you were to proportionately spread it out, it would be a tremendous hit.

If you just take a tenth of it—that \$68 million—that would pretty much wipe out our leaking underground storage tank funding, for example, for a year.

So, it would be a very devastating hit. It would be very, very difficult for us to absorb.

We've got major damage to the environmental work that is ongoing, that other members of the panel are better able to describe than I am.

But, it is not hard to imagine that you can manage that magnitude of a cut in 1 year without stopping doing something significant.

You have to make a significant decision of what you would cut.

Mr. STUPAK. Would other panel members give us some examples of what other programs—Has the Department or Agency begun to draw up any kind of plans to administer such a cut?

Mr. RYAN. No, we haven't started to do that yet. I think people have looked into their budgets and have asked the question: what would it mean in terms of a 9 percent cut to my budget.

But, we haven't started a formal process, because it has been our experience that these numbers jump around.

We would await the final number before we did a formal, full-blown look at this.

Mr. STUPAK. You indicated a new Administrator would not probably take \$680 million out of one program, if there is a program that big that you have that is half of Superfund, I believe you said, but take it across other areas.

We have had a lot of discussions in the health and environment in this past year on Brownfields and drinking water research, drinking water revolving loan funds.

You mentioned leaking underground storage tanks, one that I have worked on throughout.

But, there are lead poisoning programs we have talked about.

How would it impact those types of programs, the Brownfields, which seems to be real popular on both sides of the aisle?

How would it affect a program like that? Can anyone comment on it?

Mr. RYAN. I think Mr. Shapiro may want to take it for, say, the 9 percent cut to Superfund.

Mr. SHAPIRO. Yes. I think, if one assumed a flat 9 percent Superfund and Brownfields programs, the kind of impacts we would anticipate, for example, would be that, we would virtually have to eliminate any new construction activities starting up.

We would certainly have a backlog of sites available to begin construction in 2001.

In addition, a cut of that magnitude would probably force us to scale back ongoing clean-up activities at sites where we have already commenced construction by a significant number.

If one, again, translated that into the Brownfields program, the \$92 million that is in the President's budget, reduced that by \$9 million, would equate, for example, to scaling back the number of

communities that could benefit from revolving loan fund funding by about 20 communities.

So, it would have a very substantial impact on our ability to move forward to protect citizens around these contaminated sites.

Mr. STUPAK. Mr. Fox.

Mr. FOX. On the water front, a cut of this magnitude would have a fairly significant impact on our ability to provide safe drinking water to all Americans.

If budget cuts of that type are passed, we would have to probably cut on the order of \$75 million in our drinking water loan funds to small communities throughout the country.

That could affect loans for up to 40 communities, perhaps more.

We give a good deal of resources to the States to help them implement the drinking water programs.

That, too, would be cut substantially outside of the drinking water fund.

A number of our clean water programs, of course, would also be very significantly cut, affecting clean-up activities in places like Chesapeake Bay, Long Island Sound, or the Great Lakes.

It would be a very significant impact.

Mr. OXLEY. The gentleman's time has expired.

Mr. STUPAK. There is no place to absorb it if you cut these programs. That is what we are hearing?

Mr. FOX. Again, based on what future decisions we made, they would be very difficult decisions.

Mr. STUPAK. Thank you for your patience. Mr. Chairman.

Mr. OXLEY. The gentleman's time has expired. The chairman informed the members that we have two votes on the floor.

We have about 8 minutes, or so. I would like to recognize the gentleman from Kentucky for 5 minutes.

Then, we will stand in recess until after the votes. The gentleman from Kentucky.

Mr. WHITFIELD. Thank you. Mr. Shapiro, how many Superfund sites are there in the U.S.?

Mr. SHAPIRO. In terms of sites that are on the national priorities' list, including those that have been removed from the list after work has been completed, there are 1432 sites.

Mr. WHITFIELD. How many of those are operated by the government or the government is responsible for them?

Mr. SHAPIRO. I believe there are about 170 Federal facilities.

Mr. WHITFIELD. One of those facilities is in Paducah, Kentucky, the gaseous diffusion plant, which has been operated by DoE for many years prior to privatization.

What is the relationship between DoE and EPA on Superfund sites, like the gaseous diffusion plant in Paducah?

Mr. SHAPIRO. It is the responsibility of the Federal agency to do the clean-up with EPA overseeing their operations and selecting the remedy in consultation with the Federal agency.

However, the funding for the clean-up itself comes out of that Federal agency's budget.

Mr. WHITFIELD. So the \$1.45 billion that you are requesting in discretionary funds for Superfund would not be used to clean up any government site?

Mr. SHAPIRO. It would be used to cover our oversight costs in terms of working on the technical aspects of the remedy and ensuring that the remedy is being implemented.

But, the actual physical cost of remediation would not be covered in that, that is correct.

Mr. WHITFIELD. But it is ultimately EPA's responsibility. They oversee DoE. Is that correct?

Mr. SHAPIRO. It is correct that we oversee DoE. It is DoE's responsibility to clean up the site, a responsibility that we will enforce.

But, it is certainly their responsibility to do the clean-up.

Mr. WHITFIELD. Do you have any authority over them?

Mr. SHAPIRO. Yes, we do.

Mr. WHITFIELD. What sort of authority do you have? Can you fine them?

Mr. SHAPIRO. Yes, we can.

Mr. WHITFIELD. What is the maximum fine that you would be able to find a government agency?

Mr. SHAPIRO. Steve Herman can answer that.

Mr. HERMAN. Congressman Whitfield, what we do is we often have a compliance agreement with the other Federal agency, which sets out a schedule of the activities that are supposed to take place.

If they miss those, often they are provided stipulated penalties for missing those deadlines.

Mr. WHITFIELD. Do you have a compliance agreement with DoE on the Paducah site?

Mr. HERMAN. I believe we do.

Mr. WHITFIELD. You know, there's been over \$400 million spent on the Paducah site.

There are still 57,000 barrels of hexafluoride. There's Drum Mountain, there are aquifers that have been contaminated.

The Washington Post, on the front page, has written ten articles about the Paducah site.

It seems to me that someone is not getting the job done there, and, you know, we talk about being concerned about people—the air they breathe, the water they drink, which is vitally important, obviously.

And EPA has made great progress in the area of clean air and clean water.

But, we have hundreds of employees at Federal sites around the country who were exposed unknowingly to radiated material.

The communities have suffered, and these sites are not being cleaned up.

There is no evidence that there is any priority in cleaning them up.

Mr. HERMAN. The primary priority in the instance you are mentioning is with the Energy Department.

We have been working in various ways with them to try and get the clean-up that you want and we want done.

What I would be glad to do is get together with you and your staff and show you exactly what we have done at Paducah, what the issues are, and then certainly hear any suggestions you have on how we could do our job better.

Mr. WHITFIELD. I will take you up on that, because all the press—They talk about the \$400 million being spent.

I know that subcontractors are out there supposedly responsible for cleaning it up.

But, ultimately, EPA has the legal authority to oversee this and make sure it is done.

So, I thank you for that offer, and I will be in touch with you, and I would look forward to doing that.

Mr. HERMAN. I look forward to it, also.

Mr. OXLEY. The gentleman's time has expired. The committee will stand in recess for approximately 15 to 20 minutes.

[Brief recess.]

Mr. BILIRAKIS. Let's get started. Mr. Green to inquire.

Mr. GREEN. Thank you, Mr. Chairman. I would like to ask this question of Mr. Herman, if I could.

After my opening statement, I will follow up with the questions.

Mr. Chairman, also, if we don't have within our 5 minutes, because I understand there is not a second round, if we would be able to submit the questions to the panelists for answers or written answer in the future, we could request that.

Mr. BILIRAKIS. I am just not accustomed to that.

Mr. GREEN. If we could if we don't finish our questions we have in the 5 minutes, if we could submit questions.

Mr. BILIRAKIS. Customarily, we do that, yes.

Mr. WHITFIELD. Excuse me just 1 minute. Would the gentleman yield for one moment?

Mr. GREEN. Briefly.

Mr. WHITFIELD. It was my understanding, Mr. Chairman, that we were going to have an opportunity for a second round.

Mr. BILIRAKIS. I haven't discussed it with Mr. Oxley, but I believe that would be a good idea.

Mr. WHITFIELD. I know that, walking over there, he said that would be fine.

Mr. GREEN. Mr. Herman, the Longhorn pipeline I talked about earlier is the most thoroughly tested and studied refinery product pipeline ever to come into service in the Lower 48.

Since Longhorn filed for the pipeline conversion in 1997, two other previous crude service pipelines are up and running, pipelines that were converted from crude to refined products without the mitigation measures Longhorn is proposing to implement.

I think you are aware that the environmental assessment was supposed to be completed last September and is still not completed.

The original settlement provided a final EA decision would be out by September 11 last year.

It turns out the draft EA was not released until October, and the EPA still has not made a final decision.

Won't you tell me, in my office and our committee, when we hope to wrap this up and if we can expect the process to be completed?

Mr. HERMAN. Congressman Green, I will be glad to address that question.

The environmental assessment, as you know, was done pursuant to an agreement after a lawsuit had been filed.

The court ruled that we had to do an EIS. The process is that the environmental assessment is done.

A finding of no significant impact was put out, and that was put out for public comment.

Mr. GREEN. Excuse me. The court didn't rule you had to do an environmental impact statement.

Mr. HERMAN. You're absolutely correct.

Mr. GREEN. Because that is what you said, and I wanted to make sure the record was correct.

Mr. HERMAN. Let me make myself clear. The court didn't say that we had to do an environmental impact statement. What the law says and what the court says is you do an environmental assessment.

Then, it is determined whether you make a finding of no significant impact and you go ahead with the project, or whether the environmental assessment and the comments raise such questions that you should do an environmental impact statement.

The status that we and the Transportation Department are at now is making a determination of whether an EIS is necessary.

The environmental assessment was put out for comment, and, as you know, 6000 comments were received on both sides of the question.

Mr. GREEN. I attended one of the hearings.

Mr. HERMAN. I understood, from Greg Cook, our Regional Administrator, saw you and spoke to you at that hearing.

I know that our staff is working through these. They are very sensitive to the issue you raised about the timeframe.

What I can pledge to you is that they are trying to bring this to a conclusion as quickly as possible.

They want to be sure to do it right, because, as I think we all know, there will be litigation.

It is very important that every "i" be dotted and "t" be crossed, and that they address all of the comments.

I am aware of the steps that you said that the pipeline has taken.

I am not intimately aware with all the comments and the substance of the comments with regard to the objections and everything.

But, I do know that this is a very high priority in the region. The Justice Department has been involved, and they are working very hard on it.

Mr. GREEN. The 6000 comments were based on having attended the hearing, particularly one in Austin, Texas, that was delayed from December because of the location.

A lot of those comments were duplicative, and they were basically the same concern—the folks who really don't want a pipeline that is already there to be used for product instead of crude oil. Is that correct?

Mr. HERMAN. I am not sure. I do know that, in some cases, we do get standard comments, and, you know, we are aware of that dynamic.

Mr. GREEN. Because of the background on this, I would hope and encourage as quick a decision as possible, because it probably will be in the courthouse, no matter if you do an EIS, because it is not just because of the environmental concerns that it is being delayed.

It is because of competitive refiners in New Mexico obviously want to keep a market at El Paso, Texas, and they don't want to share it. But, I appreciate your comments today.

Mr. HERMAN. I will relate your comments to my colleagues.

Mr. BILIRAKIS. The gentleman's time is just about to expire. Not quite yet.

Mr. GREEN. Mr. Chairman, I have an MTBE question for Mr. Perciasepe, but, if we are going to have a second round, I'll be glad to yield back my time and wait for my second round.

Mr. BILIRAKIS. I appreciate that. Dr. Coburn, time to inquire.

Mr. COBURN. First of all, let me thank the gentleman from Florida for allowing me to go out of order.

Mr. Perciasepe, you testified that you have 7 years of proven success.

That very well may be the case, but I want to tell you, in Oklahoma, you don't have 7 years of proven success.

I want to talk about Tar Creek, and Mr. Fields, I think, is aware of that program.

Before I ask the questions, I want to outline, so that everybody knows what's going on, we have an identical project in Joplin as to Tar Creek in Ottawa County in Oklahoma.

You all are the supervising agent running that clean-up program.

It costs twice in Oklahoma what it costs to do the same thing in Joplin. There is a criminal investigation going on right now.

We have involved the FBI in it. Now, I understand that the Army's Criminal Investigation Division is in it, because you are using the Corps to contract.

My question, actually, probably should go to Mr. Fields, unless you would rather take it yourself.

No. 1, if this is the proven success of the EPA's management, why is it that, No. 1, it is behind schedule, No. 2, it costs twice what it should, and, No. 3, there's a cost-plus program that bonuses have been paid on even though the home sites—

Most of the people are totally dissatisfied with what the EPA has done in the clean-up.

No. 4 is the fraud that has gone on, which my office has notified the EPA of, but they continue to pay the contractor.

I would like to know how the EPA can justify that they, in fact—that is a proven success record in Oklahoma, when in fact there is nothing but collusion and proven bribery by now, which we have already given to the FBI, in the contractor—and the Corps is included in that—and how can you say that this is a proven record of success?

Mr. FIELDS. Congressman, I would agree with you that we have some major problems at Tar Creek.

The FBI has been involved. The EPA Office of Inspector General has been involved.

Mr. COBURN. Could I interrupt just for a minute? I want to tell you how good your Inspector General is.

They called our office to get the information but never came to get it.

We have documents this high, which your Inspector General has never come to get.

Mr. FIELDS. I don't know the background.

Mr. COBURN. There is no background.

Mr. FIELDS. They are working with the FBI. They may have gotten the information from the FBI.

There is a joint effort going on with the Inspector General, the FBI, and other State investigatory agencies on this issue.

I don't know what the sources of the FBI, IG, is using, but we agree there's some major problems there.

The clean-up is half done. It is going to cost a projected \$60 million to get that done.

We think that the Superfund program, overall, has made substantial improvement. This is the site that we have problems in.

We want to complete this job. Now we are projecting by summer of 2001.

I agree with you that there are significant issues with the Corps of Engineers contractors.

We are trying to resolve that, and we have—On the average, it has taken us now 8 years to get clean-ups done.

A lot of time and money has been saved, but I agree with you that some serious issues have been addressed at Tar Creek.

Criminal activity, obviously, will be referred to the appropriate authorities, and, if there are criminal activities, there will be prosecution.

But, in the meantime, we are trying to work with the Corps of Engineers, who is our agent in this case, to get them to get their contractors back on board so we can do an effective job in getting this Tar Creek clean-up done by next summer.

Mr. COBURN. I understand you are going to continue to use the same contractor that has, No. 1, been paid twice for doing half the remediation down there, plus a cost-plus and the oversight.

EPA is primarily responsible for this, is that not correct?

Mr. FIELDS. EPA has overall responsibility. The Corps of Engineers is carrying it out.

We have not yet concluded, Congressman, whether or not we are going to utilize all the same contractor personnel or firms to do the remaining work.

That issue is being assessed now. We'll have to make some judgment as to whether we change contractors and personnel involved in the clean-up, because, as you know, we stopped work on February 25 of this year because of the FBI and IG investigations going on about the criminal activities.

Mr. COBURN. Let me ask, is not the goal of these clean-ups part of the measurement of the success of the contractor, whether, in fact, the citizens who have been involved and disrupted are satisfied?

Mr. FIELDS. I agree. Public satisfaction is a major factor, sure.

Mr. COBURN. As a matter of fact, it is part of this contract.

Mr. FIELDS. Yes.

Mr. COBURN. It is written into the contract.

Mr. FIELDS. I assure you I know this has not been a good experience for any of us on either side—either within the government or outside EPA.

This is an outlier. It is not typical behavior or activity at a Superfund site.

We are as much concerned as you are. We are giving this very high-priority attention, both in Washington and in our EPA office in Dallas.

Mr. COBURN. Let me reclaim my time to make sure—Your office, the EPA Region 6, was notified by me over 18 months ago.

This was brought to the EPA Administrators in Region 6 attention that there was a problem here.

I don't doubt that there are other areas that are doing well. I know in Joplin you have done a wonderful job.

I am not critical of the whole thing. What I am saying is what needs to be addressed in this budget is how does this happen, that, one, even 18 months later is still going on until February 25 when my office has notified you that you have major problems.

At the same time, we notified you that we knew there was corruption in the process.

So, my question then would be—and then I will finish, Mr. Chairman—what steps has EPA taken to oversee the contracts that they do grant to make sure that their intermediaries, the Corps, are actually carrying those out?

Mr. BILIRAKIS. A short response and follow it up, maybe, with something in writing.

Mr. FIELDS. We will follow up in detail, but I assure you that when your inquiry was referred to the Region activities occurred.

It is unfortunate that communication was not communicated back to you or your staff as to the follow-up activities that led to the shutdown on February 25 of this year.

But, I agree with you there should have been better communication, better coordination with you, and follow up to the information that you have referred to the Region.

Mr. COBURN. I would just say that the only reason that the shutdown occurred is my office continued to force you to address this issue.

There was no instigation on your part to do what you should have been doing.

Mr. BILIRAKIS. The gentleman's time has expired. Ms. Capps to inquire.

Ms. CAPPs. Thank you for holding this hearing, Mr. Chairman.

I have been out of the loop a little while, so I am trusting that, if this question has come up, that you'll tell me, and then it will save some time.

But, I represent a district on the California coast, where we have some contaminated MTBE sites.

I am particularly concerned about the remediation and about the lack of technology for remediation for MTBE, and the ability to deal with what we already have and know about.

This committee has paid a lot of attention to the Clean Air Act, and oxygenate requirements and renewable fuels are all important concerns.

In the meantime, communities like Cambria on the central coast of California with contaminated water supplies are suffering.

EPA's Blue Ribbon Panel has recommended that the Agency accelerate laboratory and fuel research and pilot projects.

We in California have asked for an oxygenate waiver, because we really do want to get rid of the MTBE.

I am concerned now with the budget constraints, and the increased requirements that we are asking of your Agency in the face of a new MTBE, contaminated water supplies.

How, in the budget, can we hope to find resources for addressing the threats from MTBE?

Mr. PERCIASEPE. Let me just say something in general and then turn it over to my colleagues to be a little more specific on some of the clean-up and research issues.

We had hearings here about the waiver and the need for California to reduce the amount of MTBE use.

We agree with that. We are working with the State to process that.

We also want to work with the committee on legislation that will help us all solve the problem.

But, in our existing budget, we do have some funds to be doing some research on remediation.

I'll let my colleagues, Norine Noonan, from the Office of Research and Development, and Tim Fields, from the Emergency Response and Solid Waste program, talk about it in terms of what is going on now.

Mr. FIELDS. I'll just start the remediation part. Norine will talk about the research efforts on technology.

We obviously are very sensitive to the remediation problems being caused by MTBE in your State.

We are working to make sure we get as many oversight dollars as we can to the State and to the region to make sure that remediation can be done effectively.

We were assured that all the locations within the State—that adequate oversight dollars for clean up are being provided.

We are carefully looking at our remediation efforts. We are cleaning up 21,000 underground storage-type releases a year.

We are particularly looking at whether or not the special threats being posed by MTBE to make sure that our technology is going to adequately remediate MTBE, recognizing, though, that additional study of appropriate options needs to be done.

So, Dr. Noonan can address that.

Ms. NOONAN. Thank you, Tim. Ms. Capps, we are conducting research in two areas of remediation.

One is ground water and soils remediation research, where we are including in our studies field evaluations of both natural attenuation and bioreactor technology.

We are also evaluating two very promising technologies. We are treating drinking water directly.

In addition to that, we have formed an interagency work group along with the agencies in California to select the field site in California for the evaluation of field-ready remediation technologies.

These technologies will be evaluated based on a nationally competitive selection.

The site selection is nearly complete, and we expect to announce that at any time.

So, we are indeed conducting research in a variety of technology areas.

Ms. CAPPs. I applaud that, but I am concerned that we are now asking for the complete removal of MTBE in California.

I think that is a pretty large request. I am wondering if you have been able to attach a dollar amount to what that will be.

Certainly, it is not going to be limited to the State of California, I am quite sure.

Then, again, how does this fit into the overall budget?

Mr. PERCIASEPE. I'll try to answer your question in two parts.

One is the cost, perhaps, to gasoline if you do this, and a lot of research or analysis on that has been done in California on the phasing out of MTBE and the phasing in of replacement volume of some kind to replace the volume.

The cost to the consumer at the gas pump to redoing the way we make clean-burning gasoline will vary from one part of the country to another part of the country.

California has their own program, and they have done their own changes to it last December at the Air Resources Board.

I think they have made their own estimates, which my memory says is a couple of cents a gallon.

If they don't have the constraint of the oxygenate requirement and have the time to do it on a national level, I think we would see that, if you don't create flexibility in how you continue to meet the air quality objectives while you are phasing out one kind of additive, and you don't have enough time to phase in the other one, then the more quickly you try to do that the more the potential price impact will be.

The more time you get to do it the less the impact would be.

So, that is one of the key issues, I think, we have to discuss since we are trying to work with Congress to develop legislation. What kind of timeframes for these things will work?

On the cost of remediation, again, it is going to be very site-specific.

A lot of the occurrence data we see across the country from MTBE is at very low levels from ubiquitous leaking, not necessarily an underground storage tank or a major rupture in a pipeline.

But, those sites obviously will need to be remediated, and, depending on how long ago the leak occurred, there will be an increased cost due to MTBE, because it will move farther than the rest of the plume of the gasoline.

But, if it is caught quickly, the plume will be still closer together.

On the national level, particularly in lakes and rivers MTBE will be gone within months, if not days, if you stop adding it, as long as it's an aerobic situation.

Mr. OXLEY. The gentlelady's time has expired.

Ms. CAPPS. Could I ask for about 30 seconds more? One little clean-up exists, and because it is the underground that I am concerned of.

You are saying a 9-percent budget reduction. How are you going to address this in the House budget?

Mr. FIELDS. Well, we recognize, if the budget is reduced by 9 percent, it means we'll have to make some choices about certain clean-ups not being done.

That is going to impact. Some few thousand sites will not be able to be overseen in terms of the clean-up dollars that would be lost because of that kind of budget cut.

So, we obviously are very concerned about the impact of that, not only in your site, but also other sites across the country.

Ms. CAPPS. So some communities will not be having clean water?

Mr. FIELDS. There will be a delay for some communities in them being able to get remediation of their ground water, because we will not be able to get around to some clean-ups this year in fiscal year 2001 with that type of budget cut.

Mr. OXLEY [presiding]. The gentlelady's time has expired. The gentleman from Michigan, Mr. Upton.

Mr. UPTON. Thank you, Mr. Chairman. I would like, in my 5 minutes, to spend really on two items that I referenced in my opening statement.

Mr. Fox, I talked a little bit about a question about this new Great Lakes initiative—the \$50 million initiative.

As a Great Lakes member, it is terrific, but no one knows really what it is.

It had, I think, one sentence in the President's budget. There weren't a lot of details.

As I talked to my colleague, Vern Ehlers, who Chairs the Great Lakes Task Force, there has been no consultation.

Tell me what this is going to do? Do you need legislation to do this?

Mr. FOX. We included this provision in our budget to provide an additional \$50 million for Great Lakes clean-up.

These dollars will be focused at what we call areas of concern, which are places that were highlighted as specifically problematic in the Great Lakes agreement that was negotiated between the U.S. and Canada.

The State of Michigan, in fact, there's close to a dozen, I think, areas of concern within the State of Michigan.

Mr. UPTON. The Kalamazoo River, I think, is one.

Mr. FOX. One of them. These moneys would be directed to State and local governments to support clean-up activities in these areas.

The way we have envisioned this program is these funds would be available to both State and local governments.

We would request that the Appropriations Committee include sufficient language so that we can make these grants to both those entities.

Mr. UPTON. Do you need authorization language to do this or not?

Mr. FOX. Currently, we have ample authorizations to give the moneys to the States.

There's been a lot of good work being done there. If we want to be able to give money to local governments, advice of counsel suggests that the specific authorization in that regard would be helpful.

Mr. UPTON. I know Mr. Ehlers and other members of the Michigan delegation on a bipartisan basis would be most willing to listen and see what we can do to try and be helpful to clean up those waters.

Mr. Perciasepe, as I understand—I want to go back to this 1-hour rule, which I know we have communicated about in writing.

It doesn't make a lot of sense to me in terms of what happens.

We have a number of counties in Michigan. Then we moved to an 8-hour standard. That was something, I know, that EPA and a number of us were very supportive of.

Now, you have been forced to go back to 1 hour, which, as I understand it, is not your doing.

But, as I look at these counties, if—A number of years ago they were out of compliance but now, in fact, they do meet the 1-hour standard, because, in previous years, they're out of compliance, that is where you are putting them.

As we look at those counties, who a number of years ago in the past did meet the 1-hour standard but now don't meet it, they are okay.

I mean, for us in Michigan, particularly western Michigan where our air quality is really determined based on what comes across the lakes—transient air, whether it be Chicago, Milwaukee, or Gary—we know of counties in our State that you can literally take—and I am talking about this with the Administrator—take every human activity out of there—no roads, no businesses, no people, no charcoal fires—and they can't meet the standard until Gary and Chicago and Milwaukee do.

Going back to the basic question, the logic of designating the counties that, today, can meet the 1 hour but in the past didn't, and now you have non-attainment, doesn't seem very fair.

Mr. PERCIASEPE. Let me try to go through what we are going to hopefully be able to do.

Mr. UPTON. Particularly knowing what the penalties and ramifications are as businesses look to expand. That is something else.

Mr. PERCIASEPE. Exactly. I know you have talked to the Administrator, and I have spent some time with members from the central part of the State, as well.

When we promulgated the new 8-hour standard before the court remanded it to the agency, in what we viewed as a good government approach, we got rid of the old 1 hour standard in areas that met it. That way they could focus on with what they might have to do to meet the new standard.

So, we went through a process, and we revoked the 1-hour standard in thousands of counties around the country.

Under the normal process those counties would have done a maintenance plan.

In your case, it may have been largely a transport plan that we are working on with Wisconsin or Illinois.

Mr. UPTON. And it was of great help in those other States, too.

Mr. PERCIASEPE. And, then, as they attained the standard and submitted maintenance plans, we would have redesignated them as attainment.

The counties, I think, in question, in most of that part of Michigan, are in attainment.

Mr. UPTON. That's right.

Mr. PERCIASEPE. To my knowledge, they are achieving the 1-hour standard, but they never went through that redesignation process in the past.

So, if we put the 1-hour standard back in those counties because there is no standard now, the residual effect would be that they would then assume the designation they had in the past.

What could happen would be the things that you outlined in your question.

What we are trying to do—and this has been precipitated in part by the inquiries from the delegation—we are setting up some more meetings with the delegation to talk about it. We are trying to see if there is a way to work that process so that we can resolve those issues before anything happens in terms of any new requirements.

We've got some ideas that we'll want to talk to the delegation about.

But, we understand the issue.

We agree that we need to try to deal with the issue, and we have some ideas on how to do so.

Mr. UPTON. I appreciate your willingness. My 5 minutes—The clock is still moving pretty fast.

I thought I would catch my 7 o'clock plane tonight, as well.

Mr. OXLEY. Could the gentleman wrap up?

Mr. UPTON. The clock is a little fast. Maybe we can get together in the next couple of weeks and not take the full subcommittee's time. I would appreciate that and look forward—

Mr. PERCIASEPE. We are definitely looking into ways to deal with that issue.

Mr. UPTON. I yield back the balance of my hour.

Mr. OXLEY. Very good. Very effective, too. The gentleman from Florida, Mr. Deutsch.

Mr. DEUTSCH. Thank you, Mr. Chairman. I want to refocus the hearing a little bit on the hearing topic, budget requests, and really follow up on Mr. Stupak's question, which I think is, in some ways—should be the central question that we are asking about.

There are some members of the panel who did not have the opportunity to respond to Mr. Stupak's question about the impact of the Republican budget on EPA's programs.

If we could discuss the impacts on the pesticide program, the Office of Research and Development and the Air Program—

Ms. WAYLAND. I would be happy to start, using Mr. Ryan's caveat that, of course, the Administrator would ultimately make any final decision on any budget cuts.

Let me just mention a few of the programs in my area of responsibility that I would be especially worried about.

One is the Food Quality Protection Act that has been mentioned by several.

Mr. DEUTSCH. Can I just interject for a second? Basically, we are talking about a 9-percent reduction.

So, assuming you had to reduce 9 percent, what would that mean? I think that is really the question.

Ms. WAYLAND. The areas I would be concerned about that could be affected by a 9-percent reduction would be the Food Quality Protection Act, where we have a statutory obligation to review some 9700 tolerances to ensure that they meet the new statutory standard to protect the health of consumers, and especially children.

I would be very concerned that we would not be able to meet our statutory deadlines under a 9- or 10-percent cut.

Let me mention also endocrine disruptors, which has been mentioned by Mr. Brown this morning.

This is a brand-new program we are trying to get off the ground, and I would be very concerned about additional delays that might occur in that program if we were to take a 9- to 10-percent cut there.

And, new pesticides—It was mentioned this morning by Mr. Bryant, before he left, that he was very concerned about the pace of bringing new products on the market.

I think that we share his concern, and we would be most concerned if, in fact, we had to take a 9- or 10-percent cut that would prevent us from keeping up with the pace of new products coming on the market that are actually safer for American farmers and safer for consumers.

With that, I will let Mr. Perciasepe speak.

Mr. PERCIASEPE. I think the programs that would be most under concern in my area would be State grants.

We have about \$215 million in State grants. That's only about a third of the \$680 million that Mike mentioned earlier.

Also, we are asking for an increase in doing the MACT standards, that I know is of concern to the committee, of around \$6 million.

That's around a 30 percent increase in the 2001 budget. That would probably be a difficult thing to pull off with that kind of reduction.

Those are the things I would mention. Those are in the air toxics standards.

Ms. NOONAN. For the Office of Research and Development, a 9-percent cut amounts to about \$48 million of total funding for R&D requested for 2001.

Let me just give you one example in the area of drinking water research, an area that this committee has been particularly concerned about.

Drinking water research comprises almost 10 percent of my total budget now.

A 9-percent cut to that budget would really walk us back significantly in our ability to support research on the contaminants that this committee has been concerned about with regard to the Contaminant Candidate List, as well as severely limiting our ability to identify and characterize pathogens that may pose increased risk of infection and disease, particularly to susceptible sub-populations like children.

It would also inhibit our work severely in water-borne infectious diseases.

As this committee knows, the outbreak of cryptosporidium in Milwaukee was responsible for the deaths of approximately 100 people. Since 1991, the percent of outbreaks attributable to cryptosporidium has doubled, which means we must advance in both detection methods and research to understand how to mitigate pathogens in drinking water.

A 9-percent cut would walk us back significantly from that.

Mr. HERMAN. Mr. Deutsch, if I just might address some of the problems this would cause in the Office of Enforcement and Compliance.

It depends again on how Congress did it, but the ultimate effect would be that the environmental cop would be taken off the beat.

There would be few inspections, fewer criminal investigations, and, overall, less enforcement.

There would also be less compliance assistance for small business.

A 9- or 10-percent cut across the board for inspections would mean 1300 fewer inspections, 50 fewer criminal investigations, and we have had some very significant ones in your State, I know.

It would mean more than 60 million pounds of pollutants still being released into the air that could have been stopped.

Further, if the language—the Congressional language—contains the same strictures—the same restrictions on our ability to move money within our office—it totally undoes our effort to be able to address certain tools at certain kinds of problems and certain kinds of problems.

Mr. OXLEY. The gentleman's time is expired.

Mr. DEUTSCH. Mr. Chairman, if I might, just in closing, I would hope—Now, I have now offered my colleagues on the other side of the aisle the opportunity to defend those budget proposals.

Mr. OXLEY. We have seen the well-orchestrated 9-percent cut.

The question is 9 percent from what? We'll be getting into that shortly. The gentleman from California.

Mr. BILBRAY. Thank you. Editorial comments. Those of us in California are very interested in EPA's history of looking at food supplements and health food, which was a very touchy subject, as you know, for those of us on the West Coast.

Do anything, but don't take our granola from us.

Bob, I would like to ask specifically, I have looked at the joint announcement of the EPA and USDA last week.

After that, I reread the Blue Ribbon Report from EPA, which you know I very strongly support, and which the Lung Association supports.

What I found in that report was a recommendation of a reduction of MTBE use, maintaining air quality benefits and removing the 2 percent oxygen requirement.

However, I couldn't find in this report any suggestion that reflected your announcement last week, that a new requirement for renewable fuels should be established.

Is that requirement in this report at all?

Mr. PERCIASEPE. Could I turn your attention to page six in the Executive Summary Recommendations where it talks about removing the oxygenate requirement.

It doesn't get specific about that, but it says that the panel recognizes that Congress, when adopting the oxygenate requirement, sought to advance several national policy goals, energy security and diversity, agricultural policy, et cetera, that are beyond the scope of our deliberations.

The panel recognized that, if Congress acts on the recommendation to remove the requirement, Congress will likely seek other legislative mechanisms to fulfill these other national policy interests.

What we did is we tried to interpret a suggestion to you in principle on how we might do that.

You are correct, although the panel did not make a specific recommendation on how to achieve those other objectives.

Mr. BILBRAY. And they did not recommend—Let me just say this.

If the EPA was writing down priorities, would the priorities be economic, fuel independence, and then, third, public health clean air? Would that be the priorities of the EPA?

Mr. PERCIASEPE. EPA's priorities would be public health.

Mr. BILBRAY. The priorities that were articulated in the press release were economic, fuel independence, and then public health was third.

So, this obviously didn't reflect EPA's priority list. It was somebody else's priority list.

Mr. PERCIASEPE. I'm not following. What report?

Mr. BILBRAY. The announcement that was just made by the EPA and USDA, just released last week—the joint press release by the—

Mr. PERCIASEPE. Okay, last week.

Mr. BILBRAY. When I read it, I said this cannot be the priority of the EPA.

It must be of somebody who is looking at other priorities rather than public health as the primary—

Mr. PERCIASEPE. All the priorities that we would identify as being central to the public health issues that you and I have spent time discussing in this room are in those principles that were announced last week.

As you have already pointed out, they are derived significantly from the Blue Ribbon Panel Report.

What we tried to present last week was a broader administration view that takes into account these other issues, like energy security and agricultural policy, and tried to give us an idea.

It is only one of the ideas in there of how you would deal with that.

Mr. BILBRAY. So you're saying that it is the administration's position, not necessarily EPA's, but the administration's, that the farm economy, the energy independence, takes 1 and 2, and that health is No. 3 in the list from the administration's point of view, but not EPA's?

Mr. PERCIASEPE. The first thing on the list is give us the authority to remove MTBE. That is the first thing on the list.

Mr. BILBRAY. The three priorities in the press release—and I'd ask you to look at it—was the economic impact, fuel independence, and then, and only then, the public health side of it.

I just thought that, if EPA signs off on this letter, they need to take a look at the fact that is this USDA strategy that got priority over EPA, because it didn't reflect the EPA that I have worked with for 25 years.

Mr. PERCIASEPE. We identified—and I don't know what order it was in the press release—but in the piece of paper that lays out the principles, the first principle is give us the authority to remove MTBE.

We do say that, in order to have a package to achieve all the goals that Congress had in 1990 and to address the issues that the Blue Ribbon Panel highlighted, although they didn't make a specific recommendation on it, all of those things need to be done together.

Mr. BILBRAY. Now, we all agree that mandates in the past have been pushed through, meaning well, but without the research to be

able to back it up, and which is now causing problems that we did not perceive.

Now, Administrator Browner, on March 20, 2000, stated that she was calling on Congress to take the unprecedented step to start providing content levels for ethanol and other bio-fuels in gasoline.

Does the EPA, in fact, know through extensive research that ethanol is, "safe?"

Mr. PERCIASEPE. Let me say that ethanol has been one of the most studied alcohols around.

EPA would admit that anything that is designed to explode in a car is going to have byproducts of combustion.

Whether you put MTBE in or alcohol, or benzene or toluene, or whatever you put in, there will be something that comes out of the tailpipe.

California's own analysis of this and I'll read directly from the summary and conclusions of the Department of Environment's report on ethanol and other substitutes.

I can certainly provide this for the record, but I would like to say here on the record that there are no substantial differences in the public health impacts of different non-MTBE fuel formulations, which include several different ethanol formulations considered in the scenarios for the year 2003 for the State of California.

Then, it goes on to talk about the water risk from MTBE.

So, comparing MTBE and non-MTBE health effects in terms of the air emissions—

Mr. BILBRAY. That's not what I am saying. We're not talking MTBE here.

We're talking about EPA is now proposing to replace one old mandate with a new mandate, and then says it is safe.

I am saying where is the data to prove, in every application that you are going to be mandating, that ethanol is safe and is the safest fuel, safest formula to use in that application?

Mr. OXLEY. The gentleman's time has expired. The gentleman may respond.

Mr. BILBRAY. I ask for unanimous consent for an additional minute, Mr. Chairman.

Mr. OXLEY. We'll have the gentleman respond and then move on. Do you have a response?

Mr. PERCIASEPE. In addition to the State of California making that finding that I just—

Mr. BILBRAY. They were making a finding of one application, and that is comparing it to another product.

Mr. PERCIASEPE. Ethanol.

Mr. BILBRAY. But that is an application pertaining to water, and other applications.

Do you agree there have been court cases and findings—and California has gone to court, and they've won in court over the application of ethanol—different situations that were not considered appropriate for public health? The courts adjudicated that.

I am just saying where is our data to say that a new mandate will be safe, and be safe in the implementation?

Mr. PERCIASEPE. The other studies done by the Health Effects Institute and the State of California, as I mentioned—

There's a wide range of literature on the health effects of ethanol.

The thing that I think would be of more concern to us is the by-products of combustion of ethanol, things like acetaldehydes, and things like that, that come out of the tailpipe.

The question, then, is when you put ethanol in and it reduces the other toxics, which it does, what is the net effect?

Are the emissions from gasoline still able to meet the air quality standards that we are suggesting we maintain?

The other important thing that we are suggesting is that we start with where we are and move slowly into the future on growth in the use of renewable fuels.

There is a lot of research and you also have to look at the net effect on the emissions.

Mr. OXLEY. The gentleman's time is expired.

Mr. BILBRAY. The Blue Ribbon Committee said that that mandate to the State of California was obstructing the clean fuel strategy rather than aiding it.

We still want to make sure that our clean air strategies are based on the health, not economic stimulus.

Mr. OXLEY. The gentleman's time has expired. The gentleman from Kentucky, Mr. Whitfield.

Mr. WHITFIELD. Mr. Chairman, thank you very much. Mr. Fields, prior to your coming in, I had a discussion with Mr. Shapiro about the gaseous diffusion plant at Paducah, which is a Superfund site.

I would just like to emphasize to you the point that Mr. Coburn made.

I think that there must be some problems where EPA is overseeing the clean-up of Superfund sites for which the Federal Government is responsible for that.

We have had the FBI come in and take files out of there, as well.

We have the Washington Post writing about the Paducah plant ten times in the last 6 months on the front page.

We have spent \$400 million down there, and there is still little evidence of any clean-up, with aquifers being contaminated, and so forth.

I would urge you to review that. Mr. Herman was kind enough to offer to meet with us to discuss this in more detail, which I would like to do.

I would ask you is EPA legally prohibited from spending its appropriated funds to help in the clean-up of a Federal Superfund site?

Mr. FIELDS. We can't spend Superfund dollars, but we always seek restoration through subsequent-year appropriations if we find an emergency situation.

We have done that on occasion where we have done clean-ups on park-land property.

We have spent several millions of dollars, and then we have gone to the Department of Interior to get reimbursement.

I do want to say, on Paducah, the current plan this year, DoE has a \$50 million budget.

Secretary Richardson has requested more than \$100 million for Paducah in fiscal year 2000.

I agree with you. I don't want to leave us at the previous discussion on this, but we recognize Paducah is a major problem.

The DoE recognizes that, and they realize the need to put much more money into clean-up.

We on the EPA side obviously would prefer that the Federal agency get the appropriate appropriation for clean-up out of their own budgets. We would then obviously provide oversight.

Mr. WHITFIELD. I know you would prefer that, but can you spend the money?

Mr. FIELDS. Yes, sir, we can do that.

Mr. WHITFIELD. Is it essential that you be reimbursed by the agency?

Mr. FIELDS. It is critical for us right now. The Superfund budget in fiscal year 2000, as you know, got cut by \$100 million.

The more money we spend on Federal activity, that is less for the private sector. We obviously want DoE, DoD, to get good dollars.

Mr. WHITFIELD. Let me ask you, are you spending money from the Superfund account on Brownfields projects?

Mr. FIELDS. Yes, sir, we are.

Mr. WHITFIELD. Are Brownfields projects defined as a Superfund NPL site?

Mr. FIELDS. No, we spend Superfund dollars on things that are not NPL sites.

Mr. WHITFIELD. Here is my point. We have on record around the country at Federal sites employees of the Federal Government and subcontractors who are coming down with serious illnesses, cancer, and so forth.

We have aquifers being polluted, yet your Agency is spending money for non-Superfund site clean-ups when you have these Federal sites around the country.

You are talking about \$109 million for fiscal year 2001, which I applaud Mr. Richardson for. I was there when he made the announcement.

But, we spent \$400 million down there, and you still cannot tell that anything has been done.

Mr. FIELDS. I acknowledge there are major problems at Paducah, but keep in mind the overall clean-up budget for the Federal Government is roughly \$12 billion.

Mr. WHITFIELD. Do you think that your Agency should be spending money on Brownfield sites, which are not the danger to the public that these Superfund sites are?

Mr. FIELDS. We think we have made an appropriate judgment about how much we should spend.

States and local governments have come to us for requests. We spend roughly 5 percent of the Superfund budget on Brownfields each year.

We think that is an appropriate investment for the 450,000 Brownfield sites that States need to clean up under their voluntary clean-up program as compared to the 95 percent of the Superfund budget that goes to our NPL sites.

Mr. WHITFIELD. You and I disagree on that, because I can just tell my community that, despite the contamination concerns, despite the contamination of the aquifers, that still that's not that big of a priority at this point in time.

Mr. FIELDS. Congressman, just one interjection. We have 300 people in EPA who are working actively overseeing Federal facility clean-ups like Paducah paid for out of the Superfund budget.

So, there are people who are actively working on facilities across the country overseeing clean-ups being done by DoE and others.

We think that is the appropriate role for EPA in Federal facilities.

Mr. WHITFIELD. When we have our meeting with Mr. Herman, I don't know how you are organized at the EPA, but would it be appropriate—

Mr. FIELDS. I'll be happy to join Mr. Herman.

Mr. WHITFIELD. Thank you. One other question. There is a lot of methamphetamine labs around the country.

Every time law enforcement officers find one, it has to be cleaned up. It is my understanding that EPA has funds available in the local government reimbursement program to assist local police departments with clean-up of those sites. Is that correct?

Mr. FIELDS. That is correct, Congressman.

Mr. WHITFIELD. Do you know how much money is in that fund?

Mr. FIELDS. I was told it is 2 percent of whatever our Superfund budget is. It is 2 percent of \$1.4 billion this year that would be available under that local government reimbursement fund.

Mr. WHITFIELD. Whose office would that come under?

Mr. FIELDS. That is under my office. My Office Director is here with me on that program, yes.

We run that Superfund program that administers the local government reimbursement program.

Mr. WHITFIELD. The EPA has been having a lot of meetings with States and environmental groups and the industry to find some common ground and resolve issues as it relates to the New Source Review regulations.

It is my understanding that some real progress has been made there.

Yet, we keep hearing that the EPA may walk away from those discussions and simply end them. Where are you all on that?

Mr. PERCIASEPE. We continue to have discussions with many different stakeholders about enhancements of the New Source Review program.

Several months ago, what would commonly be called the complex manufacturing group—these are a variety of different industry groups—came and said they wanted to get into some more detail on this.

We have had about four meetings with them.

We have not stopped. We have stopped having those meetings while we assess where we are, and I am probably going to spend some personal time doing a little motivational activity trying to get people to start to see some common ground, but we are not going to suspend them at this time, no.

Mr. WHITFIELD. Thank you, Mr. Chairman.

Mr. OXLEY. The gentleman's time has expired. The Chair will recognize himself for just some brief questions.

There has been a lot of talk about a 9-percent cut. Mr. Perciasepe, the 9-percent figure that was a cut was from the President's request, is that correct?

Mr. RYAN. It would obviously be against the next budget would be the President's request.

Mr. OXLEY. So would this alleged 9-percent cut from the President's request—

Mr. RYAN. The way I understand OMB calculates it for this purpose was from the current budget to get the number that we talked about.

Mr. OXLEY. The staff informs me that the Function 300 in the budget basically gave, in the natural resources and environment area in Function 300, a \$200 million increase from a freeze level, and that that was in the budget.

Ultimately, it is up to the appropriators, of course, to determine how that is determined, is that correct?

Mr. RYAN. That's correct, yes, sir.

Mr. OXLEY. Let me now turn to some questions for Mr. Fields. Welcome back, Tim.

Mr. FIELDS. Good to be here, sir.

Mr. OXLEY. For the umpteenth time, I guess, I have a question about fly ash.

After 19 years of study, an EPA report to Congress concluded that regulation of fossil fuel combustion waste should generally remain exempt from Federal hazardous waste regulation.

In briefings earlier this year, EPA's professional staff appeared to voice a similar conclusion, yet we now hear reports about an 11th-hour reversal of that position, among others.

There is concern from the Governor of Ohio, Bob Taft, who has sent me this letter dated March 30.

He has some concerns, "EPA's move to regulate coal combustion waste under Subtitle C of RCRA undermines the extensive efforts of States, Ohio in particular, to increase the beneficial reuse of these materials."

In other words, recycling, which I presume we all want to encourage.

My question is can 19 years of study and the recommendation of the Agency's technical staff and the existence of strong State regulatory programs simply be ignored?

Mr. FIELDS. We are not going to ignore any information on this issue.

I want to make clear we have not made a determination. That issue is still being discussed within the administration.

I want to make clear up front—make very clear—that, even if we made a regulatory determination that some portion of coal ash were to be regulated as a hazardous waste, nothing would change.

We would have to go through a subsequent rulemaking process, which would take several years before anything would change.

But, also keep in mind that, when we issued the March, 1999 tentative conclusion in the report to Congress, we indicated that that was open for comment.

Subsequent to March, 1999, we have gotten many comments from a lot of people about this issue.

We are reviewing a lot of the information about what is going on out there in practice.

Several things have changed over the last 12 months. We have found, for example, that 43 percent of the industry has not lined their waste disposal landfills that serves impoundments.

We received comments which provided additional information on damage cases that have been caused by coal ash operations.

Also keep in mind that the March, 1999 report to Congress made it clear that that tentative conclusion not to regulate any coal ash did not apply to mine filling.

We have subsequently found, in looking at mine filling operations, that there is inadequate ground water monitoring in many cases where the mine fill operations are occurring, and that that is having impacts where ground water contamination has been documented, et cetera.

When the initial report to Congress went up in March, 1999, it was a very close call.

It was not a slam-dunk by any imagination. We made clear that we wanted to open this up for comment, receive input from a variety of sources, and we are doing that.

We are looking at all the information, that some States have very good programs, and we are looking at those good practices as we make those decisions about what should be our regulatory determination as to whether some part of coal ash ought to be regulated under Subtitle C.

Even if we made such a determination, it is likely that those beneficial reuses for concrete and roadbeds and others—

Those would continue to not be considered a hazardous waste, even if we concluded that some portion of this industry's waste should be regulated as a hazardous waste.

But, Mr. Chairman, let me make clear. A decision has not been made.

We are having discussions right now within the administration with a lot of different agencies—the Department of Energy, the Department of Interior, and others—about this issue as we speak.

We will weigh all the information, all the many comments we received since March, 1999, as well as our own independent analyses we have done of State programs, in making an appropriate regulatory determination.

Mr. OXLEY. Thank you. My time has expired. Let me recognize the gentleman from Florida.

Mr. DEUTSCH. Thank you, Mr. Chairman. Before I ask questions, I have a statement by Mr. Towns and Ms. Capps, who will submit those into the record.

Mr. OXLEY. Without objection.

[The prepared statement of Hon. Edolphus Towns follows:]

PREPARED STATEMENT OF HON. EDOLPHUS TOWNS, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF NEW YORK

Mr. Chairman, I welcome our witnesses today to discuss the Environmental Protection Agency's (EPA) budget for the important environmental protection programs which they administer. I strongly support this Committee's oversight responsibilities, and welcome hearings such as this, but I am afraid that this hearing may be just a little too late in the process. I would have preferred a hearing such on these issues earlier in this session of Congress.

The President's budget was submitted on February 7, 2000. The House of Representatives passed its budget and the EPA appropriations hearings concluded yesterday. It is my understanding that the Republican budget passed by the House of

Representatives two weeks ago would require significant cuts in domestic discretionary spending. According to the Director of the Office of Management and Budget, "the resolution would cut next year's budget for most non-defense programs by an average of nine percent." I am concerned that this could have serious impacts on the EPA's environmental protection programs, and I ask unanimous consent that Mr. Lew's letter of March 23, 2000, be inserted in the record at the appropriate place.

I'm concerned about the impact the Republican budget may have on programs I strongly support like the Brownfields program. This program is needed to cleanup areas in urban communities such as the one I represent in Brooklyn, NY and return them to viable uses. H.R. 1750, a bill I introduced which has over one hundred co-sponsors, is an effort to ensure that the Brownfields program remains intact and continues to cleanup urban communities such as the ones in Brooklyn.

Finally, Mr. Chairman I am pleased that the President's budget funds this important program at \$92 million. This program is extremely helpful and one that I strongly support. I urge all members to resist efforts to cut EPA's budget and restrict important environmental protection programs. I would like to additionally urge all members to resist efforts, as have been seen in past years, to cut Brownfields funding or place restrictions on revolving loan program grants.

Thank you, Mr. Chairman.

[The prepared statement of Hon. Lois Capps follows:]

PREPARED STATEMENT OF HON. LOIS CAPPS, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF CALIFORNIA

Thank you, Mr. Chairman, for holding today's hearing on EPA's proposed budget for Fiscal Year 2001. I would also like to thank our witnesses for coming today. I appreciate all the work you do to protect public health and the environment, and realize it is no easy task.

I am particularly concerned that under the Republican's proposed across the board budget cut of nine percent, EPA will be unable to fulfill its mandate to protect public health and the environment. For example, the Underground Storage Tank Program will be cut at a time that EPA has requested more funding, and at a time when funding is needed to address compliance with storage tank regulations. This is particularly important to help prevent additional contamination to our nation's water supplies from MTBE.

I applaud EPA's recently stated commitment to phase out MTBE, and hope the Agency will move expeditiously on California's request for a waiver from the oxygenate requirement. However, in light of the recent U.S. Geological Survey finding that as many as 9,000 wells in 31 states across the nation may be contaminated from MTBE, I would like to know if there are any specific plans in the works by EPA to help communities remediate contaminated water supplies affected by MTBE leaking into groundwater. I hope the Agency will commit time and funding to combat this problem. EPA's own Blue Ribbon Panel recommended the acceleration of laboratory and field research, and pilot projects, for the development and implementation of cost-effective water supply treatment and remediation technology. Where in the budget can we find money to implement these programs?

Another area of particular interest to me is implementation of the Food Quality Protection Act (FQPA). Additional research funding is critical to ensure that our farmers are given the necessary tools they need to protect their crops and supply our nation with the food it needs at this critical phase when pesticide tolerances are being reassessed.

I realize that EPA has a large responsibility to protect public health and the environment. I look forward to working with my colleagues to support the important work of your Agency.

Mr. DEUTSCH. Also, I have a letter from the Director of the President's Office of Management and Budget regarding how that 9-percent cutback number came, which I think clarifies the comments that were made.

Mr. BILIRAKIS. I guess I'll reserve on that until we take a look at the letter. We haven't seen it. I don't know that there'd be any problem on it.

Mr. DEUTSCH. Let me take this last round of questions and kind of move to a local issue that I know, Mr. Fox, you have been very involved in.

The EPA comments regarding Homestead Air Force Base, if you can elaborate what EPA's position is regarding the Air Force determination for the use of that base, I think that would be very helpful.

Mr. FOX. As you know, south Florida has a very unique, sensitive environmental ecosystem.

The Air Force Base happens to be located between two national parks, the Key Biscayne National Park and the Florida Everglades National Park, so that any proposal for redevelopment of that Air Force Base is something that we take very seriously and presents the potential to have significant environmental issues.

The Federal Aviation Administration and the Air Force have gone through a process of developing a proposed redevelopment project for Homestead that includes the idea that it would become a regional commercial airport.

EPA submitted formal comments on this environmental impact statement this month.

Our comments raised, I think it is fair to describe it, serious objections with the proposal as it was laid out.

Potential noise issues, water quality issues among others, traffic congestion, indirect impacts with growth and development are among the issues that we have raised formally in our comments.

We have suggested that alternative proposals would be much more mixed-use development that wouldn't be focused on a commercial airport and might be more appropriate development for that site.

I'd be happy to provide the committee with more specific detailed comments on this if you'd like to have them for the record.

Mr. DEUTSCH. Let me just probe a little bit. Now that EPA has made its comments, what legal authority do you have to prevent those types of uses that you view as detrimental based on your statutory authority?

Mr. FOX. That will be dependent on different aspects of the development project and where different regulatory opportunities arise throughout the course of this development.

Typically, development projects need clean air permitting, clean water permitting, and at some level we would ultimately have some authority there.

But, at this point, our goal is really to work with a very complex mix of Federal and State interests to try to find a solution that will ultimately serve the people of south Florida and the environment for years to come.

Mr. DEUTSCH. Could you also elaborate a little bit, as well.

Is there a formalized mechanism, because, at this point, obviously there are a number of different Federal agencies involved?

I know Secretary Babbitt has also spoken out directly on this. I know that Secretary Daley has an impact through the Commerce Department.

I think the Secretary of Defense, Secretary Cohen, has a direct involvement, as well.

Is there a formalized mechanism where people are talking to each other in terms of what ultimately will be an administrative position regarding this?

Mr. FOX. My understanding is the answer to that is yes, it comes through structures that were developed through the Base Closure Act by Congress.

It is a local authority that I think, in this case, is run by Miami-Dade County. That is the forum in which these discussions are ongoing.

Mr. DEUTSCH. But, from the administration side, is there a formalized mechanism that is going on right now?

Mr. FIELDS. Yes. As Mr. Fox said, the base closure process—We have a base realignment and closure team that is composed of State officials, EPA officials, and DoD officials.

We happen to be involved in property transfer. It has to be approved by EPA.

So, in terms of the appropriate reuse options at Homestead, we have to be signatories that the appropriate transfer of property for whatever use is going to be environmentally protected.

So, that is one mechanism, at least, under the base closure program.

Mr. DEUTSCH. Let me follow up just a little bit on what you just said.

You have outlined, and I have correspondence through—it is under your signature, but it is to Albert Lowas of the Air Force Base Conversion Agency.

You have elaborated now in testimony some serious specific concerns that you have.

Again, I am not an expert in the BRAC process. Are you saying that EPA has to formally approve the specific disposition?

Mr. FIELDS. Through that BRAC program, we have to be a signatory to the appropriate property transfer to assure that the environment is going to be protected. That is part of the role we play there.

Mr. DEUTSCH. Let me ask you, under the present proposals, what you seem to be saying is that those don't meet your concerns.

Mr. FIELDS. I'll let Mr. Fox answer that.

Mr. FOX. That is correct, but, again, I think our goal here is to work with all the interests to see if we can find a solution that will meet both the economic and environmental goals for the area.

Mr. DEUTSCH. Right, but, again, I just want to be really clear, though, in your answer to that statement, what I have heard you say—and I don't want to put words in your mouth—you can repeat them, maybe, more directly—the present proposal, which is really—which the county has selected as its option, that specific proposal does not meet standards where you feel EPA would sign what is a legal requirement to transfer that property to Dade County for that use?

Mr. FOX. What we have said is that the preferred option—

Mr. DEUTSCH. I understand that.

Mr. FOX. [continuing] raises significant environmental objections, and we have articulated those at this time.

I think it raises very much, as you suggest, the question as to whether or not we would ultimately find that we would disapprove that.

Mr. BILIRAKIS. The gentleman's time has expired.

Mr. DEUTSCH. The gentleman hasn't really answered the questions.

Mr. BILIRAKIS. As long as we get to it quickly here.

Mr. DEUTSCH. You're not going to say what you don't want to say, but, I mean, it is almost like a yes or no question is a lot easier.

If you can give me a yes or no answer, I'd appreciate it.

Based on that specific project, which is a project that you evaluated, I don't think there is any question that the Collier option is a more environmentally sensitive option in weighing it.

But, I guess I am really trying to pin you down, truthfully, which is that, based on that specific proposal that is out there, are you saying the EPA, as an Agency, will not sign a legally required document as part of the approval transfer process?

Mr. FOX. I truly mean to be respectful and not avoid the question.

But, this is very early in the process. This was the first document that was put out.

I don't think it would be appropriate for me right now to opine one way or the other.

Mr. DEUTSCH. I understand that. Thank you, Mr. Chairman.

Mr. BILIRAKIS. The gentleman's time is expired. You know, the 9-percent reduction figure that has been bandied around here—

By the way, the gentleman requested this March 23 letter be entered as part of the record.

Without objection, that will be the case.

[The letter follows:]

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
March 23, 2000

The Honorable J. DENNIS HASTERT
Speaker of the House of Representatives
Washington, D.C. 20515

DEAR MR. SPEAKER: I am writing to express the Administration's deep concerns about the budget resolution that the House will debate today. The resolution reported by the House Budget Committee would set the country's overall fiscal policy on the wrong path. If implemented, it would reverse much of the fiscal progress of recent years and could endanger our hard-won budget surplus. It is a plan for fiscal legislation that will make it extremely difficult to address priorities such as reducing our public debt, strengthening Social Security and Medicare, including providing a prescription drug benefit, expanding health care coverage, and enacting targeted tax relief. The resolution will also make it difficult to complete the FY2001 appropriations bills in a timely manner.

The budget resolution makes room for a fiscally irresponsible tax cut by short-changing important priorities for the American people. As a result, Social Security, Medicare, health coverage, and discretionary programs would all suffer under the resolution reported by the Budget Committee. The resolution calls for policies that would undermine the pledge to dedicate the entire Social Security Trust Fund annual surpluses to debt reduction. In short, the resolution calls for tax cuts and related additional debt service costs that would exceed both OMB and CBO on-budget surplus projections over the next five years.

The resolution creates room for the tax cut through an unrealistic assumption that Congress will be able to pass deep cuts in domestic discretionary spending. The resolution would cut next year's budget for most non-defense programs by an average of nine percent. These artificially low levels would be cut even lower over time

in order to pay for the resolution's tax cut. Too often, past policymakers have used questionable economic and budget assumptions to produce rosy scenarios and avoid making tough but necessary budget choices. That approach to budgeting helped produce the record deficits of the 1980s and early 1990s. This resolution should not set as back on that course.

The results of these discretionary cuts would be devastating. Compared to the President's Budget, more than 1.1 million women, infants, and children would be cut off from nutritional assistance through the WIC program. The FBI would have to cut 900 agents. We would be unable to reach the President's goals of serving 950,000 children in Head Start, providing urgent repairs for 5,000 schools, and hiring 49,000 public school teachers to reduce class size. We would be unable to keep our national security commitments around the world.

Discretionary spending is not the only priority that would be crowded out by the resolution's fiscally irresponsible tax cut. The resolution does not adequately address the critical issues of Social Security and Medicare. The committee-reported resolution includes no proposals to extend Social Security's solvency. The reserve fund for Medicare is inadequate to address Medicare's solvency and modernize the program with a prescription drug benefit. Moreover, the resolution fails to fund other important health initiatives, including the President's proposals to expand access to health coverage through Medicaid and the State Children's Health Insurance Program (SCHIP). The President's Budget framework would allocate \$91 billion (\$18 billion over five years) to the health coverage initiative.

The President's budget proposed to reverse some of the mechanisms used last year in the final appropriations bills. We made those proposals to restore normal budgetary conventions in hopes of returning to more straightforward fiscal legislation that is free of gimmicks. The resolution rightly assumes the President's proposal to reverse some of those timing shifts. Unfortunately, by relying on unrealistic assumptions about discretionary spending, the budget resolution risks once again forcing the use of the same approach.

The Committee-reported resolution is fundamentally flawed and fails to provide a balanced and workable economic plan. In the past, this approach has delayed, rather than expedited, action on appropriations bills and other fiscal legislation.

In contrast, the alternative that Representative Spratt will offer on behalf of the Democratic leadership is a more responsible budget that improves on the Republican resolution in a number of important aspects. It assumes a more responsible aggregate level of non-defense discretionary spending that would be available to fund education, law enforcement, the environment, and other critical needs. It includes a targeted tax cut that will not put our surplus at risk. The Spratt alternative also includes important health initiatives, such as expanding access to health coverage, extending Medicare's solvency, and providing a prescription drug benefit.

I hope you will revise the Committee-reported resolution to address the Administration's concerns and pass a bipartisan budget resolution that will make it possible to complete this year's work in a timely manner while producing effective results for the American people. I look forward to working with you towards that end.

Sincerely,

JACOB J. LEW
Director

Mr. BILIRAKIS. I will refer to this letter in my questioning—the letter as identified by Mr. Deutsch, from Jacob J. Lew, the Director of OMB.

The resolution creates for the tax cut, or anyhow—The resolution would cut next year's budget for most non-Defense programs by an average of 9 percent.

It does not say EPA is cut by 9 percent. There is nothing in this to that effect.

I wanted to get that clear, because, you know, it is an opportunity by members to demagogue again, as quite often unfortunately happens here.

I don't know what the EPA budget would be, whether it would be 9 percent reduction.

But, again, we are talking about reduction from the President's request, not a reduction from prior years, because our understanding is it to have been an increase in the Republican budget.

Mr. Perciasepe, I understand you indicated that the administration was requesting an increase in air toxics.

But, on page I-45, is it, of your budget document, zero dollars is requested for air toxic standards.

Second, although—and I have already covered this, but I’ll do it again—the 9-percent figures are bandied about, in fact, this is an artificial figure based on a request and not an actual reduction versus spending in 1999.

This request, by the way, that we are referring to, includes programs—and you all can counter this if you’d like—not specifically authorized like \$85 million for the Clean Air Trust, and over \$2 billion in commitments for Better America Bonds.

The administration request also proposes reductions for air toxics, science, and research; therefore, reductions in efforts to attain national air quality standards.

Isn’t it, really, a more accurate picture of your request is that you have advocated some administrative priorities but that funding for EPA has generally been going up the last few years?

Isn’t it true that it has been going up for the last few years?

Mr. PERCIASEPE. For EPA?

Mr. BILIRAKIS. Yes.

Mr. PERCIASEPE. There are significant Congressional earmarks placed in our budget.

I will ask the Chief Financial Officer, but I think it was \$400 million.

Mr. FOX. \$470.

Mr. PERCIASEPE. \$470 million was added to our budget that was not geared to our specific programs in our 2000 budget.

On the air toxics, I am afraid that there was a mistake in the submittal to you, and I apologize for that.

I have been given an errata sheet on what the actual requests—

Mr. BILIRAKIS. Zero should not be zero?

Mr. PERCIASEPE. I apologize for that. I’ve just been told that there has been a mistake in that.

I will provide for the record the correct numbers.

[The following was received for the record:]

The following numbers replace those in the Key Program Summary for Air Toxics.

	FY 99 Enacted	FY 00 Enacted	FY 01 President's Budget
Air Toxics Federal Standards	24,637.9	19,380.6	27,312.3
Air Toxics Characterization	9,088.2	8,452.9	9,503.7
Air Toxics Implementation	10,561.6	11,517.6	14,511.3
Clean Air Partnership Fund	0.0	0.0	25,700.0

Mr. BILIRAKIS. The air toxics research, of course, you reduced your request in that connection.

The Air Toxics Federal Standards is where they had the mistaken zero.

Mr. PERCIASEPE. That’s correct. The number I have—

Mr. BILIRAKIS. So there’s give-and-takes insofar as your budget is concerned, too.

The point, I guess, is that there has not been, in the budget that is passed by the Congress, a 9-percent reduction for the EPA dollars.

There is a 9-percent, apparently, reduction overall for non-Defense spending as per the letter that Mr. Deutsch placed in the record. How that will affect EPA—

Mr. RYAN. You stated it correctly the way Mr. Deutsch characterized it: they are saying it is 9 percent on average.

You are quite correct. The Appropriations Committee can determine how they want to do that any way they choose.

But, we have to prudently look at what 9 percent would mean if we got our share, which is what we have done.

Mr. BILIRAKIS. Well, you do have to prudently, but you certainly shouldn't be taking the position that there will a 9-percent—a definite 9-percent reduction.

Again, if there is a 9-percent reduction—which, hopefully, there will not be—it is a reduction from the President's request, which includes some of these programs which apparently have gotten it authorized. Maybe that might be open to discussion.

Mr. Fields, thank you for coming back all the way over to this side of the Capitol.

Mr. Shapiro stood in your shoes. I did say to him, as I did to all the others, how much I appreciated the cooperation of the EPA with regard to the Stouffer site down in Tarpon Springs, Florida.

You would be surprised that I would bring that up, but I also went into the ombudsman.

Can you tell me is there an intent to reduce or eliminate the role of the EPA ombudsman?

Mr. FIELDS. Absolutely not, Congressman. We support the ombudsman function.

The function sunset in 1989. We have continued that as a permanent EPA function.

Every one of the last three Assistant Administrators has continued that ombudsman function without exception, Republican and Democrat.

I assure you that we strongly endorse and believe that there is a need for an ombudsman function within the EPA.

I know you have actively participated in public meetings with our ombudsman down in Florida.

We appreciate your involvement in the situation at Stouffer, and I assure you there is no intent to eliminate that function from EPA.

Mr. BILIRAKIS. And you speak for EPA when you say that?

Mr. FIELDS. I am speaking for EPA when I say that.

Mr. BILIRAKIS. You know, I became familiar with that role, and, again, as I said earlier, we can pass this legislation but we quite often don't see it actually in operation.

In that case, I was able to see it in operation. All right. Mr. Strickland.

Mr. STRICKLAND. Thank you, Mr. Chairman. Mr. Perciasepe, you state in your testimony that, "Congress earmarked from EPA's budget some \$470 million for more than 320 special projects in individual Congressional districts last year."

You further state that the EPA will not be carrying forward last year's earmarks and will continue this year to oppose earmarks.

In addition, I understand that this year's EPA budget would dramatically reduce funding for rural water technical assistance.

I represent part of southern Ohio that is rural. Last year, the EPA's State and tribal assistance grants included about \$1.4 million in funding to initiate a large project designed to eliminate arsenic in the drinking-water supply of several communities in my district.

This project is estimated to cost over \$20 million. The counties of Vinton and Jackson in southern Ohio are a part of Appalachia and currently have unemployment rates of 17 percent and 8 percent, respectively.

They do not have \$20 million to clean up the arsenic in their drinking water.

Given the fact that these rural counties in southern Ohio suffer from arsenic-laced drinking water, they do not have \$20 million readily available for this kind of project.

The EPA budget severely cuts rural water technical assistance.

The EPA will not carry this project forward in fiscal year 2001, and EPA will not support earmarks for fiscal year 2001.

I finally got to my question. Where do these communities, or communities like this, get funding to move these investments forward, because what is happening is life-threatening?

Mr. PERCIASEPE. Mr. Strickland, I'll let Chuck Fox, Assistant Administrator for the Water Program, answer your question.

Mr. FOX. About 4 years ago, this committee reauthorized the Safe Drinking Water Act and created a State revolving loan fund program, which we have gotten up and running, and has proven to be a very successful program in helping communities finance drinking water improvements around the country.

In fact, this month, we are estimating that the thousandth loan to a community has been provided under this law that was only passed 4 years ago.

There's already been over \$2 billion worth of activity here.

It is good news to me. Seventy-five percent of the loans in this account are actually going to small systems under 10,000, which in many cases are those communities that have the greatest need.

These are loan programs. They are typically reduced loans at below-market rates. They are not grants.

But, it is a way of helping some of the communities around the country.

Mr. STRICKLAND. I understand there is an increase of about \$5 million in this revolving fund.

But, a community where there is 17 percent unemployment and where people are drinking today, if they have no other source for clean drinking water, arsenic, where there have been numerous cancers identified that are probably related to this problem, can you tell me today that there is going to be sufficient funding for this community and for other communities to solve these kinds of problems?

Mr. FOX. I wish I could, but I can't. The short answer is that, in this country, we have an enormous gap of infrastructure needs around the country, both wastewater and drinking water.

Our most recent needs survey on the drinking-water side suggests over \$100 billion worth of investment that is going to have to happen in this country over the next 20 years.

The contribution this committee authorized represented a very significant increase in the Federal contribution.

Historically, it is a share that is paid by the State and local governments, particularly local governments.

This is a very significant need that we face as a Nation.

Mr. STRICKLAND. I certainly don't want to be argumentative, and I don't want to be disrespectful to you.

But, I have been elected, and those of us who sit up here have been elected.

It troubles me somewhat that the earmarked projects seem to be held in disdain when many of us represent situations in our district where we have no other choice but to seek earmarks for problems that are of such significance.

Having said that, I am going to continue to seek an earmark for this very, very serious problem.

A last question, if I could, Mr. Chairman. I think I have a little time left.

Mr. Perciasepe, as you know, I testified before the Senate Committee in Cincinnati, Ohio, regarding the New Source Review issue.

I stated then and I'll state now that, without sufficient dialog from the interested parties or stakeholders, I have little confidence that a workable solution can be reached.

At the time of the hearing, I understood that EPA was conducting stakeholder meetings.

However, I recently have been informed—and if I am wrong, please correct me—but I have been informed that EPA has suspended further discussions with industry stakeholder groups.

Could you tell me if that is true or not true?

Mr. PERCIASEPE. I think the word "suspended" is probably the wrong word.

We have been having dialog with a number of different kinds of industry groups, from utilities to what would commonly be called complex manufacturing—paper mills, oil refineries, industries of that nature.

We have had a series of meetings with them, and we are sort of assessing where we are with those discussions.

Then, I will be following up some of them to see if we can find some points to move forward.

I think we have made some progress. We are going to need to push a little harder on all sides to do this.

So, suspension, I think, is too hard a word, but we are in a couple-week period here where we are trying to assess where we are and where the opportunities are to continue.

The simple answer is no, we haven't suspended.

Mr. STRICKLAND. Mr. Chairman, can I ask one really quick question?

At the Cincinnati hearing, I submitted testimony on the IBEW. I would be interested in knowing if you can tell me quickly which stakeholder groups have been involved in the discussions, and in particular whether or not labor has been included, as the Senators suggested that they ought to be.

Mr. PERCIASEPE. I don't have a published list with me today of all the different groups.

We could follow up with you, or I could supply them for the record, Mr. Chairman.

But, I don't know to what extent any particular labor group may have been involved in the discussions or represented.

Mr. BILIRAKIS. Will you furnish that information for the record? Certainly Mr. Strickland is very interested.

[The following was received for the record:]

As with any group with an interest in NSR reform, labor groups have had the opportunity to comment on the rulemaking by writing to the Agency, commenting on proposed rules, attending public hearings, or participating in the numerous stakeholder meetings that have been open to the public. The EPA maintains a docket for the NSR Reform rule (Docket No. A-90-37) which includes information about the various meetings to discuss NSR Reform and includes any written comments received on the rule.

A review of the docket shows that unions, including the United Mine Workers, The United Brotherhood of Carpenters and Joiners, and the Paper, Allied-Industrial, Chemical and Energy (PACE) International Union, have either commented on the proposed rule or have attended at least one of the stakeholder meetings. However, this docket is not a comprehensive record of everyone who attended every single public meeting, and some individuals in the record did not indicate whether they were representing an organization, so it is likely that additional representatives from unions have also attended some of the larger public meetings and made comments on the rule.

In addition to unions, the groups participating in stakeholder discussions so far generally include (1) representatives from numerous industry groups such as the Chemical Manufacturers' Association, the American Petroleum Institute, the Edison Electric Institute, over 100 other trade groups, individual corporations, and law firms representing a broad cross-section of industrial sectors; (2) representatives from dozens of state and local air pollution control agencies, as well as from regional planning groups in the Northeast and Mid-Atlantic States, and from STAPPA/ALAPCO, a national association of state and local air pollution control agencies; (3) representatives from about a dozen environmental or public interest groups including some umbrella groups like the Clean Air Task Force who represent additional organizations; and (4) representatives from federal agencies including EPA, the Forest Service, the National Park Service, the Fish and Wildlife Service, the Department of Energy, and the Department of Defense.

Mr. BILIRAKIS. If the gentleman will yield time that he does not have, just very quickly on the arsenic, we earmarked \$4 million for our arsenic research.

Has that taken place? I am hitchhiking upon your question.

Mr. FOX. We are perhaps talking about a few different earmarks here, but the earmarks for arsenic we have are part of a very ambitious arsenic program.

We are, in fact, very soon going to be proposing a new drinking water arsenic standard based on the research that's been done.

We are a little bit late in terms of the statutory deadline, but I suspect this new arsenic standard will be out in June.

Our current standard of 50 parts per billion is not protective of public health, and this will be a new, more stringent standard based on the results of the National Academy of Sciences as well as some of our own research.

Mr. BILIRAKIS. So your answer is that you are using the dollars allocated for arsenic research for that research, is that right?

Ms. NOONAN. Yes, sir, Mr. Chairman.

Mr. BILIRAKIS. Thanks, Mr. Bilbray.

Mr. BILBRAY. Thank you, Mr. Chairman. Chuck, let me address an issue that does not specifically apply to this committee tech-

nically, that is, the International Boundary and Water Commission project in south San Diego right on the Tijuana, Mexico border.

I know, traditionally, this would not be something you would be doing, either, because it is a State Department project.

But, seeing that public health is the issue here, after 25 or 30 years of the EPA suing San Diego over the secondary sewage mandate in the Clean Water Act, the same EPA is operating or has built a plant that does not operate at secondary to this day, but seems to be able to go to secondary.

I have been informed that we need to have the cap raised by Congress.

Has EPA included in their budget a request of this Congress that the spending cap that was put on by previous Congresses—and we will say 7 years ago?

Has EPA requested that this Congress remove the spending cap and allow EPA to go to build to the secondary standard mandated by the Clean Water Act?

Mr. FOX. We sent a letter to the Appropriations Committee and this Congress requesting that they remove the cap.

It happened last year. It is not included in our budget, as a matter of your technical question, but it was a separate letter we sent to the committee.

Mr. BILBRAY. But the problem is why wouldn't you include it in this budget, because it is essential to be able to implement a budgetary request, isn't it?

Mr. FOX. As we were building this budget, Mr. Bilbray, as you well know, I was having very detailed conversations with you and some of your colleagues.

It was out of respect for that process that we did not include any specific language in this budget at that time.

It is still our goal to have the Congress remove the cap so we can get ahead with secondary treatment.

I think that is in the best interest of the people of this country and the people of your district.

Mr. BILBRAY. Out of respect for the environment, are you planning on presenting Congress with the same letter this year that you presented last year?

Mr. FOX. If you think that would be necessary, we certainly could do that.

Frankly, I think the letter is out there. It stands. If you feel it needs to be refreshed, we could certainly do it.

Mr. BILBRAY. Do you think is that an essential part of implementing EPA's strategy when it applies to fulfilling the Clean Water Act at the International Boundary and Water Commission in San Diego?

Mr. FOX. We simply cannot go to secondary treatment at that plant without Congress raising the cap.

We have enough money in the pipeline right now to continue on some engineering work this year.

But, we ultimately can't complete construction on it without Congress removing the cap.

Mr. BILBRAY. Thank you. Bob, let me get back to my favorite subject.

I have read that page 6 of the Blue Ribbon Report. It doesn't say anything about introducing new mandates.

Now, before we get into that, let me ask you a question. In 1995, a new Member of Congress was asked by the State of California to carry a bill to eliminate the 2 percent mandate for that State.

Since then—Let's just say this. Why do you think I introduced the bill in 1996. I worked on it in 1995. Why do you think I introduced that?

Why do you think the State of California did? Was it because I knew MTBE was a problem? That I knew it was going to become such a controversial issue?

Mr. PERCIASEPE. I don't know. You'll have to tell me.

Mr. BILBRAY. How would I have known that MTBE was going to be the controversial issue that it is now at that time?

Mr. PERCIASEPE. So you were proposing to do it, I am assuming, from the way you asked the question, to remove the oxygenate requirement even before MTBE was an issue?

Mr. BILBRAY. The problem I am getting to—and this is what the Blue Ribbon Committee is reinforcing—MTBE by itself is not the problem.

The problem is a mandate that does not allow flexibility to address environmental problems, and I'd ask my colleague—both my colleagues on the other side of the aisle to really look at this, because we get—

EPA now is being diverted over to talking about MTBE, rather than talking about a mistake that was made in 1990, that those of us in the environmental health community knew was a mistake by 1992.

By 1994, we had developed alternative fuel prototypes, and in 1995 and 1996 we were asking for the permission to implement those alternatives.

I am asking you are you willing to recognize what the Blue Ribbon Committee said, and that is Congress should act as quickly as possible to remove the mandate so the flexibility can respond to environmental concerns?

Mr. PERCIASEPE. We agree that the 2 percent oxygenate mandate should be removed.

Mr. BILBRAY. But you propose to replace it with a new mandate.

Mr. PERCIASEPE. A different mandate.

Mr. BILBRAY. You understand my concern? We are running into the same problem, and I hope my colleagues understand.

That problem is you start mandating that certain substances are used, and, when problems come up with those substances, you have eliminated the need.

It has been 5 years that I have been trying to get Congress to recognize this problem.

Now, you are going to introduce a new mandate. Is it going to take another 6 years or 7 years to correct the problem that may occur there?

Why can't we as a people and as a strategy set a tough standard and say now, go clean up the environment, and do it based on the outcome, not based on a mandated implementation?

Certain products get used, but, if those products are environmentally damaging, you look around and say it is a mandate.

I want to say this to my colleagues. This is the frustration I have here.

Are you sure that your new mandate will not create new environmental problems?

Mr. PERCIASEPE. If you take MTBE out, you are going to have to put something in.

Now, you can make the list of all the possibilities. Remember, this is gasoline.

Every one of the possibilities that you have to fill that volume of liquid that we'll have to fill will have some potential problem.

Which one may have the least, or at least a neutral potential?

That is what we are trying to do, but we are not suggesting that ethanol be the replacement in the Clean-Burning Gasoline program.

We are talking about preserving the amount of renewable fuels we currently have in the Nation's fuel supply, which is about 1.2 percent of it, give or take a tenth of a percent, and that it grows slowly over a 10-year period.

Mr. BILBRAY. So, in other words, you are talking from the energy independence point of view and the FDA's point of view? It is not part of the public-health strategy?

Mr. PERCIASEPE. We have a couple of recommendations in that package about the clean-burning gasoline component of it.

One is to remove the oxygenate standard to create more flexibility to meet the clean air performance standards that you are talking about, and, two, to give us the authority to remove particular—in this case, MTBE—constituents to give us the unambiguous authority to be able to deal with other welfare issues that come up when you use these.

Mr. BILBRAY. I think you used a great word, the welfare issue.

The question is is the Clean Air Act—Mr. Chairman, I'm sorry about this, but the issue is this—there's conflicting priorities, and I ask my colleagues to look at this.

Mr. BILIRAKIS. You have done that, Brian. Please summarize.

Mr. BILBRAY. I would summarize the fact that this is the conflict we get welfare to try to address energy independence, but you have put it into an energy—

Mr. PERCIASEPE. Welfare is the term in the Clean Air Act that this committee uses for issues other than air, like ground water.

Mr. BILBRAY. I have no problem with that. My problem is that we are getting people trying to implement other agendas within a public-health law.

When you do that, you cause conflicts with your intended purpose, which is public health.

That is what we run into. I yield back my time.

Mr. BILIRAKIS. Mr. Engel.

Mr. ENGEL. Thank you, Mr. Chairman. I want to talk about one of my frustrations.

It is a different subject, but I am equally frustrated, and there are some similarities, I am afraid.

In my district, we have a problem regarding water filtration.

The filtration plant was mandated for the Croton Reservoir a decade ago, and I have been working very hard to try to find alternatives to building this \$6 billion plant—water filtration plant—

which I call a boondoggle, that will disrupt the community, and I think ultimately lead to more pollution in our water.

What frustrates me that I believe there are alternatives to filtration.

EPA won't look at them. There is a 1999 GAO report that showed the EPA requested far less than the authorized amount of money for research and development on filtration alternatives.

I am dismayed, frankly, that the EPA is not fully utilizing the available resources to develop this technology.

I would like to know what amount of money is being utilized to develop filtration alternative measures this year and what is the status of this technology.

Can the EPA be doing more to develop filtration alternatives, because what happens is communities are barred by law from reopening the situation.

We have had improvements in technology over the past 10 or 15 years.

There might be alternatives to filtration, but we are barred from even looking at those alternatives.

All we get, frankly, from your Agency, is that we must build this boondoggle.

What is happening in New York, there is—The New York State Department of Environmental Conservation is now considering raising the level of phosphorous allowed in water stored at the Croton Reservoir.

The DEC argues that the Bronx filtration plant will effectively remove the additional pollutants.

It makes no sense to me the logic of let's pollute the water, let's raise the levels of acceptable pollutants, and then spend \$6 billion to build a filtration plant.

I want to know why is it not logical to say we need the ability to maintain clean water, not to raise pollutant levels to justify this questionable decision to build the filtration plant in the Bronx, New York, where I represent.

I am wondering, Ms. Noonan or Mr. Fox, or, if someone can just enlighten me, because I am very frustrated with it—for clean water.

I have a wonderful environmental record well into the 1990's, and I am not a person who says not in my community, build it in someone else's community.

But, it seems to me, if you have alternatives, why wouldn't we want to even look at those alternatives?

Why would we want to maintain the kind of bureaucratic approach of, no, this is a mandate; it must happen. There may be alternatives. We're not going to look at them, and we are not even going to request the authorized amounts of money for research and development of filtration alternatives that we have.

Mr. FOX. I appreciate your frustration, but, if I could just talk a little bit about the filtration issue, and then Dr. Noonan can talk briefly about the research.

Filtration, frankly, is the basic mechanism for providing clean water to all Americans.

We are all dependent on filtered water here in Washington, D.C. when we take a glass of water.

There has been common understanding in the public-health community for years that we want to provide what we call multiple barriers of public-health protection in the drinking water system, meaning that, if you could take pollution out of the water in the first place, that is a good thing to do, even in the case where you are filtering your water, as well, since we had a series of filtration requirements that came online throughout the late 1980's and early 1990's and were reaffirmed in the Safe Drinking Water Act amendments.

We have done, I think, incredibly well across the country.

There are a total of 10,000-plus drinking water systems that are required to filter because they are getting their water from surface water supplies like the Potomac.

Over 9000 of those have filtration in place. There were 145 systems that we made very specific scientific determinations, that they did not need a filter based on very high-quality-source water and repeated sampling that proved that they were, in fact, safe.

Today in this country there are all but two systems that do not—are not meeting the filtration requirements as required under our regulation out of these 10,000.

One of them is the Croton system, and the other is the Boston system.

The rest of New York's water supply, as you know well, has maintained filtration avoidance because they have such high-quality water.

The Croton watershed, as you know, is a very urbanized, increasingly developed watershed that has the potential of introducing a significant amount of pollutants into the watershed.

There has been sampling suggesting that, in some cases, filtration is necessary.

We have reached a consent agreement with the city of New York to provide filtration for that supply.

I think the consent agreement requires construction and completion of all this by the year 2006 or 2007.

Mr. ENGEL. If there are technical advances in filtration alternatives which have been developed over the past 10 years, why wouldn't we look at that?

Do you feel that there have been advances in filtration alternatives?

I mean, if water was determined to require filtration a decade ago, and since that time we have made advances, why wouldn't we want to look at that?

Let me just do a second part. I have some legislation which would allow public water systems to reapply after a 12-month period to the State in order to ascertain if the filtration plant is still needed.

My bill allows the new technologies to be considered in determining whether a filtration plant is needed or if environmentally friendly filtration alternatives that provide clean drinking water can be implemented instead.

Mr. FOX. We have some concerns with this legislation, again, coming back to the fundamental premise that the filtration provides the basic level of protection to all Americans who are drinking water.

Mr. BILIRAKIS. Mr. Fox, with all due respect, the gentleman's time has expired, but I would certainly allow a very significant response to this question, not an encyclopedia, I guess, is what I am saying.

Mr. FOX. I will be very quick. We have some concerns with your legislation.

We believe, in general, we have made significant progress in this country with filtration.

The Croton system, in particular, when we had the last hurricanes come up the East Coast, was shut down for many weeks because of problems with high turbidity.

This is not a system that typically would meet our test for avoiding filtration.

Ms. NOONAN. Mr. Chairman, may I ask for the privilege of clarifying the gentleman's question.

Mr. BILIRAKIS. If you can do it briefly, yes.

Ms. NOONAN. In fact, we are working on alternative filtration technologies.

We have worked on them prior to now, and we continue to work on them, both membrane filtration and biofiltration.

We have in-house work in our laboratories that is taking place. It is a small effort, because we have a large water research plate full of issues.

Let me just mention that, in general, alternative filtration systems waste a significant amount of source water.

They do tend to be expensive to maintain and operate on a cost-per-gallon basis.

In a priority-setting mode, we have to make choices about the kinds of investments we make in drinking water.

Given that, we have maintained a small effort in evaluation of alternative filtration technologies within our drinking water program.

Mr. ENGEL. Mr. Chairman, if I could just have 10 seconds for a response.

I want to just repeat that the September, 1999 GAO report illustrated the EPA requested far less than the authorized amounts of money for research and development in filtration alternatives.

That is very dismaying that you are not fully utilizing the available resources to develop this technology.

Mr. BILIRAKIS. We have tried to make those points a number of times, Mr. Engel.

All right, our timing—By the way, I just wanted to, as we close here—The staff has consulted, at my request, with the CRS.

The CRS—Regarding last week's budget resolution, the CRS informs us that, based on their analysis, the House passed a \$700 million increase for Function 300 Natural Resources, which is a 3.8 percent increase.

Just for the record, again, I would ask you, and I know you would be available, to respond to any written questions.

Without objection, members' opening statements will be made a part of the record.

Any additional material may be submitted to the record for 3 days.

Robert, thanks very much for your patience and your perseverance. It was a good hearing.

[Whereupon, at 1:15 p.m., Thursday, March 30, 2000, the hearing was adjourned.]

[Additional material submitted for the record follows:]

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
August 31, 2000

The Honorable MICHAEL BILIRAKIS
Chairman
Subcommittee on Health and Environment
Committee on Commerce
U.S. House of Representatives
Washington, D.C. 20515

DEAR MR. CHAIRMAN: Enclosed please find a complete set of our responses to the follow-up questions for the record following the March 30, 2000 hearing on the Environmental Protection Agency's FY 2000 Budget which were received on May 5, 2000. As you know, we have already provided responses in two previous installments on June 13 and July 20, 2000.

I thank you for the opportunity to respond, and hope that EPA's input will prove valuable to the Committee.

Sincerely,

DIANE E. THOMPSON
Associate Administrator

Enclosures

COMMITTEE ON COMMERCE; SUBCOMMITTEES ON FINANCE AND HAZARDOUS
MATERIALS, AND HEALTH AND ENVIRONMENT 3/30/00 HEARING

According to the Administration's budget submission for Fiscal Year 2001, an additional \$106 million is requested for its clean air goal. However, much of this increase may be attributable to the Clean Air Partnership Fund, for which \$85 million is requested.

Question 1A: Please provide all draft criteria or guidance concerning how the Fund would be organized and administered.

Attached below is the full text of the document entitled "U.S. EPA Clean Air Partnership Fund: Draft Program Design Framework," which has been publically disseminated for discussion. In it, such program design organizational and administrative questions such as selection criteria, eligible grant recipients and the grant evaluation and selection process are discussed in draft form.

As noted in the document, official "guidance" for the Fund will be developed and issued according to a timetable whose specific dates will be finalized at some point after the completion of the appropriations process.

U.S. EPA CLEAN AIR PARTNERSHIP FUND DRAFT PROGRAM DESIGN FRAMEWORK

Introduction

This Clean Air Partnership Fund draft program design framework is being prepared and distributed to solicit suggestions from all parties. Please contact Keith Mason (202-564-1678) in EPA's Office of Air and Radiation with comments or questions. A final Clean Air Partnership Fund program design will be contained in the solicitation for proposals and accompanying guidance that will be developed and distributed at a later date.

Statutory Authority

- The CAPF will operate as an EPA grant program under Section 103 of the Clean Air Act which authorizes EPA to issue demonstration grants.

Eligible Grant Recipients

The Fund will provide grants to local, state and tribal governments, and to multi-governmental organizations, specifically:

- Government agencies and organizations at the state, city, and county levels
- Tribal government agencies and organizations
- Regional and multi-governmental organizations whose members are from state, city, county and tribal agencies

Selection Criteria for Project/Program Evaluation

EPA will use the following criteria in the evaluation of CAPF grant proposals:

- **Reduce multiple air pollutants.** Projects or programs should reduce or prevent more than one kind of air pollutant. All classes and types of air pollutants are eligible including: NO_x, SO_x, SO₂, PM, VOCs, CO, lead, air toxics, ozone-depleting substances and greenhouse gases.
- **Demonstrate innovative programs or technologies** which reduce or prevent multiple air pollutants.
- **Result in significant leveraging of Federal (CAPF) funds by:**
 - providing a minimum level of matching funds directly from the grant recipient (match % to be determined)
 - providing additional leveraging, as appropriate to the project or program, through one or more of the following mechanisms:
 - revolving loan funds;
 - bond guarantees;
 - tax incentives;
 - supplemental matching funds;
 - funding from private sources; and/or
 - others to be proposed by applicant and approved by EPA
- **Transferability.** Project should demonstrate the potential to replicate results and create benefits in other areas of the country.

Additional criteria will also be developed that address the role of partners and public participation. Criteria may also be developed that are specific to the types or categories of projects that are eligible, as appropriate, as part of the final Solicitation of Proposals and Guidance.

Eligible Projects & Programs

The CAPF will provide an initial source of funding for many types of demonstration projects or programs that include but are not limited to the following:

- air pollution control technologies or processes;
- air pollution prevention technologies or processes;
- retrofits or improvements that increase the energy efficiency and reduce associated air pollution of
 - commercial, industrial, municipal or residential buildings and facilities;
 - transportation systems or fleets;
 - industrial processes; or
 - existing pollution control technologies or systems
- power technologies using low or no-emitting resources as cleaner energy sources, such as renewable energy;
- financial mechanisms or other types of strategies that enable an eligible grant recipient to implement a number of demonstration projects.

Apportioning the CAPF

- **By size of grant**—to make the CAPF accessible to as many entities as possible, different amounts of funding are apportioned to different sizes of programs or projects as follows:

Grant size	Amt of pool	Size range	No. of grants	% of total
Large	\$20 million	\$2.5-\$5.0M each	4-8	25%
Medium	\$45 million	\$1.0-\$5.0M each	10-45	50%
Small	\$20 million	<\$1.0M each	20-100	25%

- By EPA's strategic air goals—EPA will review the set of final award decisions to ensure alignment with the Agency's air goals, focusing at least $\frac{2}{3}$ of the Fund on projects/programs that address criteria pollutants and $\frac{1}{3}$ of the Fund on projects/programs that address air toxics and all projects/programs required to demonstrate significant co-benefit reductions of other categories of air pollutants such as greenhouse gases.

Project/Program Timeframe

- Projects or programs should minimize the time from proposal to project start up.
- Projects or programs should be implemented within 1-3 years after the grant is awarded.

Grant Evaluation & Selection Process

EPA will use a two-tiered process to evaluate proposals and select final grant awards.

- Tier 1 provides an initial screen of a project/program synopsis to see how well they meet a limited set of necessary selection criteria
 - Tier 2 provides a more in-depth evaluation of full proposals across all selection criteria for projects/programs that qualify based on the Tier 1 process.
- EPA's two-tier process for the CAPF comprises the following steps:
- EPA selects evaluation panels
 - EPA sets parameters for Tier 1 and Tier 2 evaluations
 - All applicants submit a 3-5 page synopsis of their proposals
 - Panels evaluate proposal synopses using a pre-determined methodology
 - Applicants that qualify based on Tier 1 evaluations develop and submit a full proposal
 - EPA panels perform Tier 2 evaluations
 - Final award decisions are made

Design Process & Timetable

Clean Air Partnership Fund Program Development Steps	Approximate Time Frame	Approximate Target Date
Gather information and stakeholder ideas & input	4-6 months	2/00-8/00
Develop draft program design options	2-5 months	4/00-9/00
Evaluate options & further develop guidance	2-5 months	8/00-1/01
Issue Solicitation of Proposals and Guidance, and provide outreach and training about guidance to states, locals and tribes		2/01-4/01

CAPF Grant Proposal Calendar

Grant Project/Program Synopses Due	summer '01
Full Grant Proposals Due	fall '01
Final Selections Made	winter '01/'02

Question 1B: It seems that EPA is proposing, under this Fund, that EPA will decide who will or will not receive grants, based on broad criteria like “multiple air pollution problems’ and facilitation of meaningful public involvement.” Please tell us what effort you have made to align such criteria with existing statutory goals contained in the Clean Air Act.

Answer 1B: As defined in the document referenced in 1A above (and attached below), EPA will “review the set of final award decisions to ensure alignment with the Agency’s air goals, focusing at least 2/3 of the Fund on innovative projects/programs that address criteria pollutants and 1/3 of the Fund on projects/programs that address air toxics and all projects/programs required to demonstrate significant co-benefit reductions of other categories of air pollutants such as greenhouse gases.”

Question 1C: What data or ranking scale will you use to judge relative risks that will be addressed by each proposal?

Answer 1C: Exact details such as what data will be required to be included in actual proposals and how will that data be evaluated will be part of the final Solicitation of Proposals issued after the completion of the appropriations process. One of the selection criteria will be the demonstrated success of the proposals in reducing or preventing more than one kind of air pollutant. It is expected that proposals will quantify (in a specific manner to be determined) the reductions of emissions that the demonstrations will achieve and how those reductions result in improvement to air quality-related human health and ecological impacts.

Question 1D: How do you propose such Funds be allocated among the states? By a formula? Some other criteria, such as need?

Answer 1D: As specified in the “Draft Program Design Framework,” the Fund will provide grants to local, state and tribal governments, and to multi-governmental organizations, specifically:

- Government agencies and organizations at the state, city, and county levels
- Tribal government agencies and organizations
- Regional and multi-governmental organizations whose members are from state, city, county and tribal agencies.

At this point, it is expected that all proposals will be evaluated on their individual merits in a national-based competitive process and that there will not be any

predesignated allocations of resources to specific states, counties, tribes, cities or multi-governmental organizations.

Question 2A: I noted that Chairman Bliley requested EPA, in a letter dated March 21, 2000, to provide FTE figures and expenditures for MTBE research. However, I could not find a line item for such research in Acting Chief Financial Officer Michael Ryan's March 28, 2000 response to Chairman Bliley. How much does EPA propose to spend on MTBE research in Fiscal Year 2001?

Answer 2A: The MTBE research resources for FY 2001 total \$1.1 million.

Question 2B: Please provide the Committee with details on all FY 2001 MTBE research efforts, including the identity of the principle investigations, when each research project was initiated, when it is due to be completed and what scientific and technical questions each project will explore.

Answer 2B: The FY 2001 MTBE research efforts are as follows:

30. Monitored Natural Attenuation of MTBE under Varying Geological Conditions

Principle Investigator: John T. Wilson & John Haines

Initiated: FY98

Estimated completion: FY01

What scientific and technical questions will the project explore?

The project addresses the question of the extent and rate of the natural biodegradation of MTBE under several different geochemical conditions for which different terminal electron accepting processes predominate. The project results, which are based on coordinated laboratory and field work, will be of use in developing guidance on the extent to which monitored natural attenuation can, or cannot, be incorporated into the remedial actions taken at leaking underground storage tanks sites where MTBE is present. The final report for this project is expected to be completed by the end of the second quarter of FY01. In FY01, EPA plans to initiate research on the natural attenuation of other oxygenates that are proposed as replacements for MTBE.

2. MTBE Treatment by Adsorption/Oxidation

Principle Investigator: Scott Huling & Teri Richardson

Initiated: FY99

Estimated Completion: FY02

What scientific and technical questions will the project explore?

The project addresses the problem of providing cost-effective treatment options for groundwater that is contaminated with MTBE. This project is specifically addressing the possibility of a recently developed process that relies on the use of granular activated carbon (GAC) that has been treated with iron to adsorb MTBE from contaminated water and then use hydrogen peroxide to cause Fenton's reaction which simultaneously regenerates the GAC and oxidizes the adsorbed MTBE. This process was developed by EPA researchers and currently EPA has a patent application pending. The project will develop potential cost data as well as evaluating the technical feasibility of applying this process to groundwater contaminated with MTBE.

3. MTBE Treatment by Advanced Oxidation

Principle Investigator: Thomas Speth

Initiated: FY99

Estimated Completion: FY02

What scientific and technical questions will the project explore?

The project addresses the problem of providing cost-effective treatment options for drinking water that is contaminated with MTBE. It explores the conditions necessary to strip MTBE from drinking water supplies and the advanced oxidation technologies necessary to destroy the released MTBE. The project will examine relationships between operating conditions and MTBE removal performance, and the conversion efficiency of the associated advanced oxidation technologies capable of treating MTBE in the offgas

4. Ex-situ Treatment of MTBE Contaminated Groundwater

Principle Investigator: Al Venosa

Initiated: FY98

Estimated Completion: FY02

What scientific and technical questions will the project explore?

The project addresses the problem of providing cost-effective techniques to biodegrade MTBE using membrane reactors.

5. Technical Support to the Regions on MTBE Issues

Principle Investigator: Patricia Erickson

Initiated: FY01

Estimated Completion: Continuing

What scientific and technical questions will the project explore?

The projects will provide site-specific technical support in identifying and implementing MTBE treatment strategies.

6. *MTBE Toxicological Reviews*

Principle Investigator: Michael Davis & Jane Caldwell

Initiated: FY00

Estimated Completion: FY01

What scientific and technical questions will the project explore?

The project will develop MTBE oral reference dose (RfD) and cancer unit risk toxicological reviews for Agency consensus review.

7. *Alternative Tier II Health Effects*

Principle Investigator: Michael Davis & Jane Caldwell

Initiated: FY01

Estimated Completion: FY02

What scientific and technical questions will the project explore?

The project will analyze Alternative Tier II health effects testing data for Clean Air Act 211(b) mandate. The project includes baseline gasoline and gasoline with MTBE, TAME, ETBE and EtOH.

Question 3: What is the EPA spending in FY 2001 and what does the proposed budget for FY 2001 allocate for programs concerning the ozone and particulate matter (PM) standards which were promulgated in 1997 and are now currently under litigation? What does the FY 2001 budget allocate for all PM research programs? How much is proposed in FY 2001 for PM monitoring?

Answer 3: The Office of Air and Radiation budget includes \$2.0 million for PM, and \$0.7 million for ozone. The resources will be used to develop guidance documents and analytical tools to provide infrastructure that will be needed when the litigation of these standards is resolved. The State and local agency grant program (STAG grants) for FY2001 includes \$42.5 million for the revised PM monitoring network and \$1.25 million for IMPROVE (Interagency Monitoring of Protected Visual Environments) regional haze/visibility monitoring.

Guided by the recommendations of the National Research Council (NRC), the FY 2001 budget for Particulate Matter research by the Office of Research and Development (ORD) is \$65.3 million. The EPA's ORD also provides approximately \$2 million (included above) directed toward continuing PM monitoring work at the Supersites. The Supersites are intensive monitoring projects that study components and sources of PM. They are coordinated with other research activities being planned to study the health effects associated with exposure to these pollutants.

Question 4: Please provide the Committee with a written explanation of how spending for PM research and monitoring will inform EPA's next review of the PM standard which would be required under the 5 year cycle outline in the Clean Air Act, to be promulgated in mid-2002?

Answer 4: Research and monitoring funded in FY 2001 will increase our understanding of particulate matter (PM) health effects and exposure for the review of the criteria and standards scheduled for completion by 2007. The key dates for the current review of the standards are mid-2001, when the criteria document and staff paper should be complete. In addition, in late 2001 to 2002, the Agency will be soliciting public comments, including any significant new scientific developments arising from research being conducted and published by that time. All of the air quality monitoring data collected in 1999 and much of that collected in 2000 will be included in air quality analyses for the Staff Paper and the later stages of the decision-making process.

Newly-funded research, accepted for publication in a peer-reviewed journal by mid to late 2000 can be considered for inclusion in the criteria document and staff paper. Generally, research initiated in FY 2001 cannot be expected to produce results in time to be considered in the new scientific findings included in these documents. However, if any highly significant new findings result from this research in 2001, they could be provisionally considered during the public comment period. Some of the new work is targeted at more cost-effective implementation of PM standards. Results of the 2001 funded research in this area will be of use and of potentially significant value to industry, States, and EPA in 2003-2005, in areas such as modeling tools and source characterization used by the States in their State Implementation Plans (SIPS). As previously mentioned, the findings of all of the newly-funded research will play an important role in the subsequent review of the PM National Ambient Air Quality Standards (NAAQS) in 2007 and subsequent years.

PM research spending in FY 2001 will be consistent with the recommendations of the National Research Council Committee on Research Priorities for Airborne Particulate Matter. The research will address questions related to the biological mechanisms of toxicity, characterize factors affecting susceptibility, identify components and characteristics of PM associated with toxicity, improve understanding of sources and actual human exposures to PM, and understand the role of PM and gaseous copollutants in affecting human health. As research in these areas is completed

the peer reviewed results will be incorporated into the Air Quality Criteria Document and also support State Implementation Planning.

Question 5: EPA is about to propose new diesel sulfur regulations. How will EPA propose to address both possible price increases and any effect on diesel supply under its proposed regulations? In light of the current increases in price—has EPA completed any specific study of price and supply issues?

Answer 5: EPA's proposed emission standards for new heavy-duty vehicles and diesel fuel sulfur control were announced on May 17, 2000 and published June 2, 2000 (65 Fed. Reg. 35430). The potential for price increases and the impacts on diesel fuel supply are two of the many issues that were discussed in the proposal and on which we requested public comment. For example, the proposal includes a substantial discussion on a phase-in of the low sulfur diesel requirements as a way to provide the oil industry with some additional flexibility in meeting the proposed sulfur reductions. We are continuing to evaluate these issues and options to address them as we develop the final rule.

EPA is fully committed to working cooperatively with the diesel fuel industry to ensure that any efforts to reduce harmful levels of sulfur in diesel fuel are done in a reliable and cost-effective manner. EPA worked successfully last year in partnership with the auto and petroleum industries to develop a cost-effective rule for tougher tailpipe emission standards for cars and low sulfur gasoline. We plan to take the same collaborative approach with regard to reducing the sulfur content of diesel fuel. By working cooperatively with the oil industry, environmental groups, public health experts, and states and by taking full public comment, we will develop a cost-effective standard that can be implemented without disruption of fuel supplies and that still fully protects public health and the environment.

Although EPA has not completed any specific study on fuel prices and supply, we have investigated, with DoE, many issues related to recent high gasoline prices in the midwest.

Question 6: Page I-14 and I-15 of the Fiscal Year 2001 budget document indicate that EPA is "evaluating, and will continue to evaluate, clean air programs to determine how best to secure necessary public health protections while still respecting the court's decision (on the 8 hour ozone standard and new PM standard)."

(A) Please provide the Committee with a more complete explanation of this statement. Please provide a specific definition of the difference between implementing the standards and "securing necessary public health protections"?

(B) What specific actions could constitute implementation versus what actions would constitute securing public health protections?

Answer 6: EPA looks at each action related to the ozone standard on a case-by-case basis to determine whether, given the status of the litigation on the 8-hour ozone standard, we can move forward. EPA's approach to addressing the regional transport of ozone in the eastern half of the country by controlling NO_x emissions is a good example of how EPA is securing necessary public health protections while still respecting the court's decision. When EPA initially issued requirements for NO_x reductions (i.e., issuing the NO_x SIP Call and granting states' section 126 petitions), EPA did so because it was necessary to attain both the pre-existing 1-hour standard and the new 8-hour standard. After the court's decision on the 8-hour ozone standard, EPA announced that it would stay the rationale and requirements for the NO_x reductions that were based solely on the need to attain the new 8-hour ozone standard. Although the NO_x reduction requirements are based on the need to attain the 1-hour ozone standard, they will also help areas have air quality that meets or is nearer to the level of the 8-hour ozone standard, which will help protect public health. Another example is EPA's recently issued Tier 2 standards to control motor vehicle emissions. They are necessary to meet the 1-hour ozone standard, but they will also provide additional health benefits by helping areas reduce ozone pollution to levels that meet or are nearer to the level of the 8-hour ozone standard.

Providing information on an areas' air quality is also consistent with the court's decision. The court specifically recognized that EPA has a statutory obligation to designate areas with respect to whether they are attaining air quality standards, and gave no indication that it was relieving EPA of that obligation for the 8-hour ozone standard. Thus, EPA is in the process of working with the states to designate areas as attainment or nonattainment for the 8-hour ozone standard because we believe it is important that people have information about the quality of the air they breathe. Similarly, we are working with state and local governments in many areas to provide information to the public about air quality through the use of the Air Quality Index.

The court decision has not affected the activities related to the fine particulate standard that were planned for this time period. Primarily, EPA had planned on conducting the review of the fine particle standard, as required by statute, and

working with the states to establish the fine particulate monitoring network and to collect data from it. Neither of these activities is affected by the court decision.

Question 7: The Clean Air Act requires EPA to promulgate all Maximum Achievable Control Technology Standards (MACT standards) for air toxics by this November.

(A) Can you tell me precisely how many MACT standards will not be promulgated by the deadline contained in section 112(e)(1)(E) of the Clean Air Act?

Answer 7A: To date, we have promulgated 46 standards (covering 82 source categories) and proposed an additional 4 standards (covering 4 source categories). This primarily includes standards which were in the 2, 4, and 7 year bins and each with their own respective statutory deadline. The final deadline is November 15, 2000 for the remaining standards in the 10 year bin. In total, there are 62 standards (covering 96 source categories) in the 10 year bin. We are working on these standards, however, we will not have all of them completed by the statutory date. By November 15, 2000, we estimate that we will promulgate 3 MACT standards and propose 23 MACT standards. It is our plan to have all of the standards completed by May 15, 2002, the date of the section 112(j) MACT "hammer." While we are looking at ways to streamline the regulation development process so that we can meet the May 15, 2002 date, the amount of resources received in fiscal year 2001 will play a major role in meeting this schedule.

Question 7B: Has EPA calculated the impact on public health of delaying these MACT standards past the statutory deadline? If not, why not?

Answer 7B: EPA has not calculated the impact on public health by delaying the MACT standards past the statutory deadline. Assuming that all MACT standards are promulgated by the May 15, 2002 date, we will be no more than 18 months behind schedule. For many of the standards which have not been promulgated, we are still gathering information on pollutants being emitted, amount of emissions, control technology, and the ability to reduce emissions of these pollutants. Therefore, we have not been able to do a health assessment associated with missing the statutory deadline.

Question 8: Mr. Perciasepe indicated in the Administration's statement that the FY 2001 budget proposed an additional \$5 million for safe drinking water research in Fiscal Year 2001. However, in information provided to the Committee, it was indicated that the Fiscal Year 2001 budget only requested a \$3.2 million increase. Please explain the discrepancy in these amounts.

Answer 8: The Agency's policy is not to request funding in support of Congressional earmarks as part of the President's Budget submission. In light of this policy, the FY 2001 drinking water research request actually represents a \$7.8 million increase over FY 2000 Enacted levels when FY 2000 Earmarks are not considered. Included in the increase is an additional \$5 million to support important research on contaminants on the Contaminant Candidate List (CCL). This \$5 million increase is over and above the FY 2000 Enacted level for this important area.

Question 9A: EPA has missed the statutory deadline of January 1, 2000 for proposing a new standard for arsenic. When does EPA expect to propose a new arsenic standard?

Answer 9A: EPA proposed a new drinking water standard for arsenic in the Federal Register on June 22, 2000. The proposed rule will have a 90-day public comment period.

Question 9B: Since the 1996 Safe Drinking Water Act Amendments allowed for a full year between the dates for proposal of a standard and promulgation of a final standard, does EPA believe it will be able to sufficiently evaluate all the public comments it will receive and promulgate the new standard by January 1, 2001? If so, what specific actions will EPA take to address this shortened schedule between proposal and a final rule?

Answer 9B: EPA has established a timetable to meet the January 1, 2001 deadline for a final rulemaking and has taken a number of steps to help expedite the rulemaking process. The Agency has conducted extensive stakeholder outreach and interaction on this proposed rulemaking over the past three years. We have preliminarily addressed a range of stakeholder views identified to date on the principal issues of this rulemaking. We held five formal stakeholder meetings across the country for the purpose of discussing all aspects of the proposed rulemaking. In addition, we participated in a series of technical workgroup meetings sponsored by the American Water Works Association (AWWA) designed to examine analytical methods, occurrence, treatment, and cost/benefit analyses (states, utilities and environmental groups attended the AWWA meetings). We also worked with 22 small entity representatives, the Small Business Administration, and the Office of Management and Budget through the Small Business Regulatory and Enforcement Flexibility Act process. We also presented summaries of our rulemaking activities at national and

regional meetings of several of the major trade associations. Finally, several states participated in the Unfunded Mandates Reform Act consultation. The Agency expects that the public comment period will serve to amplify comments and points of view that have been raised previously and considered, rather than new issues that will require an extensive period of time to analyze.

Question 10A: The trade press has reported that EPA will propose a 5 part per billion (ppb) standard for arsenic and take comment on a 3 ppb and 10 ppb standard. Whether or not this is what EPA intends to do, can you tell us the present scientific basis for a 5 ppb standard?

Answer 10A: EPA is proposing a new drinking water standard of 5 ppb for arsenic and taking comment on regulatory options of 3 ppb (the feasible level), 10 ppb, and 20 ppb. EPA is proposing a Maximum Contaminant Level Goal (MCLG) of zero for arsenic. Arsenic is the first drinking water regulation which will set a standard higher than technically feasible (3 ppb) using the discretionary authority from the 1996 Amendments to the Safe Drinking Water Act to adjust the Maximum Contaminant Level (MCL) if the benefits would not justify the costs.

The scientific information that was reviewed in considering a range of possible MCL options was the health effects of arsenic (principally, the National Academy of Sciences's National Research Council report NAS/NRC), the occurrence of arsenic nationwide, the analytical methods that may be used to measure low levels of arsenic, and the costs and benefits of complying with a new standard.

From a health perspective, EPA believes that arsenic in drinking water can cause several types of cancer including skin, bladder, lung, and prostate cancer. Non-cancer effects include skin pigmentation and keratosis (thick skin growths), gastrointestinal, cardiovascular, hormonal (e.g., diabetes), hematological (e.g., anemia), pulmonary, neurological, immunological, and reproductive/developmental function. The NAS/NRC report concluded that the current MCL for arsenic is not sufficiently protective and urged EPA to lower the MCL as soon as possible. The NRC report indicated that the risk of death due to bladder cancer at the current MCL of 50 ppb was 1 to 1.5 in 1,000 and that the risk of death from lung cancer from arsenic in drinking water could be two to five times that of bladder cancer. However, the Council also noted a number of significant uncertainties in the analyses underlying these estimates. These considerations are of particular interest in examining possible arsenic in drinking water MCL options in the range suggested by this question.

Question 10B: GAO indicated in a September 1999 report that costs would rise dramatically for a 5 ppb standard from \$620 million to \$2.1 billion under EPA estimates and from \$1.5 billion to \$4.2 billion under private industry estimates. Do you have any updated cost estimates for 5 ppb standard? What are they?

Answer 10B: At the proposed level of 5 ppb for arsenic in drinking water, EPA has projected the total costs of treatment, monitoring, reporting, record keeping, and administration for the 6,600 community water systems needing to reduce arsenic to be \$379.0 million a year at 3 percent discount rates and \$445 million a year at 7 percent discount rates. These estimates are much lower than the 1995 EPA estimates cited by GAO. The previous EPA estimate for a 5 ppb MCL was \$620 million a year using a 7 percent discount rate. The \$2.1 billion estimate was for an MCL option of 2 ppb, not 5 ppb.

The following table shows the total annualized costs of treatment, monitoring, reporting, record keeping, and administration for this rule at 3 and 7 percent discount rates for all the MCL options included in the proposed rule.

Total National Annualized Costs of the Arsenic Rule
(Includes cost of treatment, monitoring, reporting, record keeping, and administration)

Regulatory Action	Three Percent Discount Rate	Seven Percent Discount Rate
Proposal of 5 µg/L	~\$379 million	~\$445 million
Option of 3 µg/L	~\$645 million	~\$756 million
Option of 10 µg/L	~\$166 million	~\$195 million
Option of 20 µg/L	~\$65 million	~\$77 million

Question 10C: How many avoided fatal cancer cases would be attributable to a 5 ppb standard?

Answer 10C: It is extremely important to recognize that the proposed rule has both quantifiable and non-quantifiable benefits. In other words, there are health end points that we can calculate with a certain degree of confidence (e.g., avoidance of some types of fatal cancer), but believe there are also significant benefits that are

more difficult to quantify (e.g., avoided circulatory problems) that are important and attributable to this rule. Reducing arsenic from 50 ppb to 5ppb protects an additional 22.5 million Americans and will prevent about 20 cases of bladder cancer per year and approximately 5 bladder cancer deaths per year. EPA expects that arsenic-related lung cancers (that could number as many as two to five times the number of bladder cancers) and cardiovascular diseases will be reduced with a lower standard as well.

Question 10D: The trade press has reported that EPA will propose a 5 part per billion (ppb) standard for arsenic and take comment on a 3 ppb and 10 ppb standard. Has EPA completed all the arsenic research which was designed as a “high priority” under the arsenic research plan?

Answer 10D: As shown in Table 10-1, EPA has completed or will soon complete each of the high priority, short-term research projects in the *Research Plan for Arsenic in Drinking Water*. These studies represent a broad range of activities in the areas of arsenic health effects, exposure, risk assessment and risk management. Some of these studies have provided information that directly supports the current standard development process, while others have made significant progress in addressing longer term research needs. The studies conducted by EPA investigators, collaborators and grant recipients compliment the efforts of scientists worldwide to improve our ability to assess and control the risks posed by exposure to arsenic in drinking water.

Table 10-1. Short-Term, High Priority Research Projects in the Research Plan for Arsenic in Drinking Water

Project Title	Status
Effects Task 1a. Feasibility study on important health endpoints (Utah).	Completed.
Effects Task 1b. Directed epidemiology study—ongoing collaborations (China, Chile).	Collaborations underway, with results available beginning in FY 2000
Effects Task 2a. Develop biomarkers (urinary metabolic profiles).	Completed urinary biomarker study in Utah population, and several studies of arsenic metabolites in animals. Linked to long-term effort.
Effects Task 3a. Factors that affect human susceptibility	Completed several studies of the effect of micronutrient status on arsenic metabolism and toxicity. Linked to long-term effort.
Exposure Task 1a. Evaluate analytical techniques for inorganic As(III) and As(V) speciation in water.	Completed.
Exposure Task 1b. Evaluate sample preservation techniques for arsenic species.	Research completed, manuscript in preparation.
Exposure Task 3a. Refine and evaluate an analytical approach to separate As(III), As(V), MMA, DMA and arsenobetaine in urine.	Research completed, manuscript in preparation.
Exposure Task 6a. Development of a national data base on concentrations in water.	Completed.
Risk Assessment Task 1a. Mode of action workshop ...	Completed
Risk Assessment Task 1b. Synthesis of existing and new data to support arsenic risk assessment and risk characterization.	Completed
Risk Management Task 1a. Conduct laboratory and field tests on arsenic control technologies, including As(III) oxidation.	Research completed, manuscript in preparation
Risk Management Task 3a. Conduct studies on the arsenic characteristics of the residual material generated by testing in RM 1a.	Research completed, manuscript in preparation

Question 11A: The proposed radon drinking water regulations proposes a primary radon Maximum Contaminant Level (MCL) of 300 picocuries per liter (pCi/L) and an alternate standard of 4,000 picocuries per liter if a multi-media mitigation plan is adopted. How many states plan to adopt a multi-media mitigation plan?

Answer 11A: EPA expects the majority of states will choose the multimedia option as both the most cost-effective and protective of public health. Preliminary information from a variety of state sources indicates that, to date, about 35 states plan to adopt multimedia mitigation (MMM) programs and the alternative MCL of 4000 pCi/L. States have the flexibility to select either the MCL or the MMM/alternative MCL option, under the framework provided by the Safe Drinking Water Act and the

radon proposal. EPA has encouraged states to seriously consider adopting the MMM option as the most effective approach to reducing radon public health risk.

Question 11B: What happens if a majority of states don't adopt such multi-media plans?

Answer 11B: According to the Safe Drinking Water Act's provision on radon and the proposed regulation, if a state chooses not to develop a multimedia mitigation (MMM) program, then individual water systems in that state would be required to either reduce radon in their system's drinking water to the maximum contaminant level (MCL) or could choose to develop individual, local MMM programs and reduce levels in drinking water to the alternative MCL. The proposed rule provides specific information and guidance for small systems that may choose to develop local MMM programs. However, as noted above, we believe it is far more cost effective to develop and implement state-wide MMM programs, in which case the utilities in the state would only be required to meet the less stringent alternative MCL.

The Administration's statement concerning the Leaking Underground Storage Tank (LUST) program made no mention of methyl tertiary butyl ether (MTBE) contamination of drinking water supplies.

Question 12: Please provide the Committee with a specific breakdown of all proposed safe drinking water research for Fiscal Year 2001. Please include a description of each research project, where such research is being conducted, the principal investigations for each research project, and the target date for completion of such research. Please provide the same data for Fiscal Years 1999 and 2000.

Answer 12: Drinking water research projects conducted or supported by EPA with FY 1999 and FY 2000 funds are described in Table 12-1. This table includes the requested information on projects that are identified in the research plans for Microbials/Disinfection By-Products (DBPs), Arsenic and the Contaminant Candidate List (draft). Drinking water research supported under the Agency's extramural research grant program is included in this table in instances where formal awards have been made to date.

Detailed project-level information associated with FY 2001 drinking water research will be formulated later this year as part of the Agency's FY 2001 Operating Plan development. However, the areas of research that will be emphasized in FY 2001 can be described. Implementation of the research requirements in Sec. 1458(a-d) and Sec. 109 of Safe Drinking Water Act (SDWA) will require a broad range of studies in the areas of health effects, exposure, risk assessment and risk management. This will include a special focus on chemicals and microbes on the Contaminant Candidate List (CCL), sensitive subpopulations, waterborne disease occurrence studies, treatment technologies and distribution systems, and remaining issues for DBPs and arsenic. Attachment 12-1 provides a summary of these FY 2001 studies in the context of the SDWA research provisions.

Question 13: The September 1999 GAO report which examined safe drinking water research programs made a number of recommendations. What has EPA done in the last six months to implement each recommendation? What specifically has EPA done to improve the transparency of the budget development process and the effectiveness of the system used to track safe drinking water research?

Answer 13: The Agency has made considerable progress in the last six months to address the recommendations in the 1999 GAO report. The specific actions taken by EPA are described below:

1. Transparency of the Budget Development Process

1-1. Identify the specific research that must be accomplished.

EPA has completed an internal review of the draft Contaminant Candidate List (CCL) Research Plan that will soon be reviewed by the Science Advisory Board (SAB). We have initiated the development of a Comprehensive Drinking Water Research Strategy that will describe research needs and priorities to support near and long-term regulatory issues. Steps have also been taken to ensure that the drinking water community will have ample opportunity to become informed about and provide input into the CCL Research Plan and Comprehensive Research Strategy. EPA is in the process of establishing a research subcommittee under the National Drinking Water Advisory Council (NDWAC). In addition, the Office of Research and Development (ORD) has initiated a series of quarterly meetings with representatives from the drinking water community to discuss research plans, activities, and resource issues.

1-2. Establish time frames that indicate when the results must be available.

1-3. Estimate the resources that will be required to support the needed research.

1-4. Use these data to develop budget requests and inform stakeholders of what research will be conducted.

As part of the Agency's annual planning and budget process, ORD works with EPA's Program and Regional Offices to allocate funds across various research programs. The starting point in this process is input from many sources, including:

- EPA's Strategic Plan;
- ORD's Strategic Planning—ORD's Strategic Plan and peer-reviewed Research Plans;
- Customer and User Needs—Input from EPA's Program and Regional Offices and Federal research partners; and
- Outside Peer Advice—e.g., the NAS National Research Council, the EPA Science Advisory Board.

This information is then used to develop annual research priorities through a process that involves Research Coordination Teams (RCT). The RCTs include ORD, Program, and Regional Office staff.

In addition, ORD has been working closely with the Office of Water (OW) over the past six months to examine research needs, resource requirements and time frames for when results must be available to support future regulatory activities. These analyses have been conducted during recent research planning meetings for FY 2001 and in the development of the CCL research plan. An internal CCL research implementation workgroup is in the process of being formed to ensure that the actual time frames and sequencing of CCL research are appropriately established and reviewed periodically. This effort will provide a valuable source of information for stakeholders on EPA research activities, as will the upcoming meetings with the drinking water community during the development of the Comprehensive Research Strategy.

2. Tracking and Communication of Research

2-1. Improve the tracking of ongoing research in relation to existing research plans.

EPA is evaluating the feasibility of using a new information management system for tracking drinking water research in relation to existing research plans. This internet-based system will allow individuals from inside and outside the Agency to easily access information on drinking water research projects and products. A pilot of the drinking water tracking system will be available this summer. This pilot will be used as a basis for evaluating the utility and feasibility of developing an expanded version that includes all drinking water research.

2-2. Improve the communication of the Agency's progress so that ORD's key customers, including the Office of Water and outside stakeholders, can obtain timely and accurate reports on the status, timing, and funding of individual research projects.

ORD is committed to sharing information on its research activities with internal and external customers in a timely and accurate manner. Opportunities are being provided for stakeholders to be involved during the initial stages of the development of new research plans and strategies (e.g., through the formation of an NDWAC research subcommittee). Furthermore, this involvement is expected to continue through the research implementation phase as well. Information-sharing meetings are being held with the drinking water community on a regular basis, and improvements are being made to the research tracking system. Collectively, these efforts will allow stakeholders to become more informed about the status, timing and funding of ORD's research activities.

Question 14: Last year, GAO testified that it could not determine whether EPA was or was not conducting adequate research to implement the 1996 Safe Drinking Water Amendments. What changes have been made by EPA to date which would change this assessment by GAO?

Answer 14: The adequacy of the research to implement the 1996 SDWA Amendments can be assessed by a consideration of the comprehensiveness, responsiveness and timeliness of the drinking water research program (see response to Question #12), and by the steps that are being taken to improve the transparency of the planning and budget process and communicating the extent and detail of the research (see response to Question #13). As the new CCL Research Plan and the Comprehensive Drinking Water Research Strategy are developed, and as the improvements described above are fully implemented, an assessment of the adequacy of the research should be greatly facilitated.

Question 15: For a number of years, EPA has routinely set aside portions of the funds Congress appropriates for state and local air grants (Section 105 of the Clean Air Act) for activities that should be funded through EPA's own budget. Examples of activities that have been paid for with Section 105 grants in recent years include: 1) training activities that are an EPA responsibility and that used to be funded from EPA's budget; 2) an ongoing project to improve emissions inventories (the Emissions Inventory Improvement Program); and, 3) from the current proposed budget, a study on heavy-duty truck and bus idling and hoteling. Does EPA believe it is ap-

propriate to take money Congress has specifically earmarked for grants to State and local air pollution control agencies and use it to pay for other activities? Prior to this diversion, what analysis did EPA perform which indicated that such spending provided more protection of human health and the environment?

Answer 15: It is EPA's policy to target STAG funds only for the direct benefit of the eligible agencies, to conduct essential activities at the most appropriate level of jurisdiction, and to minimize national set-asides. Each year EPA consults with state and local agencies on what STAG funds it targets for associated national program support. Associated program support includes those activities which directly benefit state and local agencies but for reasons of cost savings, administrative convenience, or more effective intergovernmental coordination, are centrally administered by the Agency. In FY 2000, these activities comprised about 6% of the total section 105 portion of the STAG appropriation.

In FY 2000, associated program support activity included: Agency administration of an emissions allowance and trading system at the request of the states in the ozone transport region; a grant for the operation of the Secretariat which represents the national interests of the state and local air agency administrators at their request; support for the operation of the national visibility monitoring network which would otherwise have to be undertaken by individual states; cost-saving central procurement of monitoring equipment and accessories at the request of the states; delivery of a full range of air quality training for the direct benefit of state and local air agency professionals; and, under the joint direction of a joint State-EPA steering committee, conduct of an emission inventory improvement program providing information fundamental to the preparation, implementation and assessment of effective air pollution control strategies.

In specific response to the examples cited:

- Grant funds continue to be targeted to support the Air Pollution Training Institute since Congress first directed an earmark to EPA's state grant funds in FY 1989 to underscore the importance of providing centralized training to help implement the Clean Air Act. A joint State-local/EPA steering committee helps direct the activities of the APTI and each year registers strong support for its continuation.
- A cornerstone of an effective air pollution control program is the development and maintenance of a sound emission inventory. In 1993, EPA and the state and local air agencies (through STAPPA-ALAPCO) jointly agreed to initiate a multi-year, comprehensive emission inventory improvement program designed to inform and improve the work of all agencies, and to do so using STAG resources. The first phase of this effort was recently completed and EPA once again sought state and local input on the merits of continuing this effort. At the winter 1999 STAPPA-ALAPCO meeting, state and local representatives again voted to continue this joint effort with EPA using STAG resources while focusing on a new generation of emerging emission inventory issues (i.e., air toxics, fine particulates).
- In a similar effort, for the last two years EPA has sought competitive proposals from state and local air agencies to fund projects which generate more reliable local emission factor data from largely undefined mobile source categories. The information is to be transferable to other state and local agencies and provides valuable input for national emission models used by all agencies in their plan implementation and control strategy development.

It is EPA's view that the use of these funds is consistent with Congress' intent that STAG funds be used solely for the benefit of state and local agencies. These activities are essential for the effective implementation of the Clean Air Act and the benefits these activities provide might not otherwise be achieved if the funds were directed differently.

Question 16A: What is the current amount in the LUST Trust Fund?

Answer 16A: As of September 30, 1999, the balance in the LUST Trust Fund was approximately \$1.3 billion.

Question 16B: Did EPA request the annual available amount in the LUST Trust Fund for FY 2001? If not, why not?

Answer 16B: No. EPA did not request the available balance in the LUST Trust Fund. The President's budget request reflects the need to balance environmental priorities and to stay within budget targets.

Question 16C: How much of the LUST funds actually get to the States for clean-up?

Answer 16C: Approximately \$58.1 million of EPA's LUST Appropriation goes directly to the states in the form of cooperative agreements. States use the LUST Trust Fund to pay for staff to oversee and enforce cleanups, to pay for cleanups where the owner/operator is unknown, unwilling or unable, and in emergency situa-

tions. About one-third of the LUST funds provided to states is used for site assessments and cleanups. Approximately 40 states have state UST cleanup funds which raise and expend over \$1 billion annually. This is the major source of site assessment and cleanup funds nationwide.

Question 16D: Please indicate how EPA currently prioritizes the expenditure of LUST funds.

Answer 16D: Most (approximately 85%) of EPA's LUST Trust Fund is provided directly to states and for tribes. The remaining 15% of the LUST Trust Fund appropriation is used by EPA for a variety of activities. For example, EPA provides technical assistance and training to the states and tribes on many issues, including expedited site assessment, free product recovery, and innovative remediation technologies. EPA also uses its funding to fulfill its responsibility for implementing the LUST program in Indian Country.

Question 17: In connection with a September 1990 GAO report requested by Rep. Dingell on the implications of the WEPCO rule, EPA told GAO that, "WEPCO's life extension project is not typical of the majority of utilities' life extension projects, and concerns that the agency will broadly apply the ruling it applied to WEPCO's project are unfounded." Has EPA's policy changed toward these utility maintenance projects?

Answer 17: EPA has not changed its policy with respect to NSR applicability and utilities. Moreover, the cited document does not support such a conclusion. By its terms, the Clean Air Act modification provision applies to any physical change or change in the method of operation at a source that results in an emissions increase. EPA regulations, however, have always excluded "routine maintenance, repair, and replacement" activities undertaken at an existing source from triggering the requirements of the major New Source Review (NSR) and New Source Performance Standards (NSPS) programs. In discerning whether a change is routine repair, maintenance or replacement, the source owner and permit reviewer should consider the nature, extent, and purpose of the change, the frequency with which such a change is performed, its cost, and other relevant factors. Both historically and currently EPA has consistently based its determination about whether a particular maintenance activity is routine on the factors described. These factors were confirmed by the court in *Wisconsin Electric Power Co. v. Reilly*, 893 F.2d 901, 908-09 (7th Cir. 1990).

The GAO report contains a number of statements that suggest that EPA did not expect many utilities to trigger the NSPS or NSR modification rules. These statements reflect EPA's understanding about whether NSR likely would be triggered by electric utilities based upon information provided by industry at that time. These statements do not reflect how broadly or narrowly the exclusion for routine activity would be interpreted. In addition, it is important to note that the NSR regulations provide broad leeway to avoid new source requirements for those sources undertaking even extensive, non-excluded physical or operational changes that, standing alone, would result in significant emissions increases. This is readily accomplished through appropriate permit conditions which ensure that the source's post-change emissions do not increase by a significant amount. In many circumstances, such "netting out" of review is a more cost-effective strategy than obtaining an NSR permit, and this strategy has been widely used for the last two decades in many industries.

It is the power plant undertaking a physical or operational change that is responsible for obtaining the necessary regulatory approvals from each agency that regulates it. State and Federal environmental agencies do not regularly review submissions to Public Utility Commissions, the Federal Energy Regulatory Commission, a pipeline authority or a local zoning board; nor are those agencies charged with the authority to require Clean Air Act permits. Unfortunately, it appears that few, if any, power plants informed their respective permitting authority that the types of physical or operational changes taking place at their facilities could increase emissions and therefore trigger NSR. Although EPA's statements were reasonable based on the information EPA had at the time, with more complete information, including information made available by facilities requesting applicability determinations, EPA's statements might have been different given the facts associated with a particular project.

Question 18: EPA assumed a life span of 55 to 65 years (including refurbishment activities) for utilities in the analysis it used to justify the 1990 Acid Rain program to Congress. Does EPA agree or disagree with that statement?

Answer 18: In July 1990, EPA prepared a draft document analyzing the House and Senate Clean Air Act legislation. This draft document, entitled "Comparison of the Economic Impacts of the Acid Rain Provisions of Senate Bill (S.1630) and House Bill (S.1630)," contains detailed base case assumptions that specify a fossil fuel fired

power plant life of 55 to 65 years (45 years for plants smaller than 50 MW). The document does not indicate what assumptions, if any, were made regarding maintenance or refurbishment activities.

Question 19: The Superfund appropriation for the current fiscal year (FY 2000) is \$1.4 billion, which goes for response, enforcement, management and support and research. Using this obligational authority, the Agency has consistently indicated that it will meet its goal of 85 construction completions for FY 2000. Is the Agency on track to meet that projection, if not, why not?

Answer 19: The Agency remains firmly committed to meeting the target of 85 construction completions. However, Superfund construction project schedules can be affected by many factors including the following:

- Unforeseen Buried Hazardous Waste Discoveries
- Weather-Related Delays
- Property Access Issues
- Construction Contract Disputes
- Material Shipment Delays

As EPA directly manages only those cleanups that are "fund-lead", there are approximately 70% of Superfund cleanups managed by potentially responsible parties (PRPs), as well as other Federal agencies and States which EPA has less control over project completion.

Question 20: In 1993, EPA promulgated the Corrective Active Management (CAMU) rule to exempt certain hazardous waste site cleanups from provisions of the Resource Conservation and Recovery Act that would otherwise have imposed unreasonable requirements on them. Now, in response to a lawsuit from environmental groups challenging the 1993 rule, EPA is proposing changes that would impose more burdensome procedures on cleanup projects.

(A) Please describe any instances where the 1993 rule has been a problem for cleanups, or has hurt public health or the environment?

Answer 20A: EPA has not conducted an analysis of instances where the 1993 CAMU rule has been a problem for cleanups or has hurt public health or the environment, but the Agency is not at this point aware of any such instances. EPA does, however, believe that the settlement approach is appropriate, given the circumstances of the lawsuit. It will reduce the litigation cloud over the CAMU rule, and should provide for approaches that are reasonable for the management of hazardous cleanup wastes in CAMUs and consistent with EPA's remedial programs.

Question 20B: Chairman Oxley and Mr. Towns have introduced legislation to make RCRA more flexible for State and Brownfields cleanups. In addition more than 20 members of Congress wrote the Agency encouraging it not to reduce the flexibility of the CAMU rule. As I understand it, the State agencies and the cleanup contractors do not like this change. Has EPA done an assessment of how much this change will cost at state and Federal cleanups, and if so, please provide that analysis?

Answer 20B: As part of the regulatory development process, EPA is currently developing an assessment of any incremental impacts that would be caused by the proposed amendments to the rule, including any estimated cost impacts to state and Federal cleanups. This assessment will be summarized in the proposal and will be available for public scrutiny in the rulemaking docket.

Question 21A: In 1997, EPA awarded 23 BCRLF pilots for more than \$8 million (\$350,000 each). In 1999, EPA awarded an additional 45 pilots, representing 65 communities for \$30.6 million (each community was eligible for up to \$500,000). Now, EPA want to expand this program by awarding an additional 70 pilots.

Question 21A: How many loans have been made under the Brownfields Cleanup and Revolving Loan Fund Program that EPA created in 1997? Please identify the amount of each loan that has been made.

Answer 21A: Three loans have now been made by BCRLF pilots. Stamford, CT, has made 2 loans using the BCRLF. The first Stamford loan was for \$250,000. The second Stamford loan was for \$160,000. Las Vegas, NV, made its first loan on November 17, 1999, for \$50,000. The total of these three loans is \$460,000.

Question 21B: How much money has been spent by the pilots on administrative and other non-cleanup costs?

Answer 21B: EPA places a non-cleanup related restriction on the use of BCRLF pilot funds that limits BCRLF pilots to the use of up to 15 percent of the total award to cover a cooperative agreement recipient's administrative costs.

Question 21C: How many properties have been cleaned up to date as a result of the Brownfields Cleanup and Revolving Loan Fund Program?

Answer 21C: One property in Las Vegas has been cleaned up. Cleanup at the Pacific/Garden Street site in Stamford, Connecticut, is in progress. Cleanup under the other Stamford loan will start soon.

Question 21D: Have any loans been made from the original 1997 pilots? Please explain this number.

Answer 21D: None of the original 1997 pilots have made loans. Although EPA awards the BCRLF through cooperative agreements, the day-to-day operations and activities relating to loan applications are the responsibility of the BCRLF recipient. Prior to making a loan, pilots must develop the infrastructure necessary to ensure that loans will be in compliance with Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); the National Contingency Plan (NCP); and cross-cutting Federal authorities. Many of the original 23 BCRLF pilots awarded at the end of FY 1997 cite turnover in key city personnel, combined with the newness of the program, as the basis for the delay. Additionally, the original 23 pilots were awarded prior to the development of EPA's BCRLF Administrative Manual, which details the appropriate infrastructure to sustain, account, and report on loans and cleanup.

In addition, EPA headquarters has sent a memorandum and letter to each EPA Regional office. EPA has committed to working with BCRLF pilots to help them create viable programs in their communities. To that end, we have already held a BCRLF Pilot-to-Pilot Session in Dallas, TX, immediately preceding the Brownfields '99 conference and are exploring options to make the program more flexible under the existing statute and regulations. In addition, we have prepared a letter which was sent by the regions to each of the 23 1997 pilots. The letter expresses EPA's concern with the apparent lack of progress that has been made in the initial round of BCRLF pilots. The letter encourages each pilot to take prompt action to carry out its responsibilities under cooperative agreement to operate a Brownfields Cleanup Revolving Loan Fund (BCRLF). The letter also informs pilots that under the terms of cooperative agreement, they are obligated to make loans within three years of the date of the award, and may be subject to actions to terminate the agreement, among other things, should the pilot fail to do so.

Question 22: Dr. Coburn asked several questions at the hearing with respect to Tar Creek, a Superfund site of abandoned lead mines in a 40 square mile area of Ottawa County, OK. EPA contracted with the Corps of Engineers, who then in turn contracted with Morrison Knudsen (MK) to remediate Tar Creek. Over the course of the project, this work caused significant new flooding, molding, and drainage problems for some of the homes. In addition, I understand that a fraud investigation by the Defense Criminal Investigative Service has been initiated.

Question 22A: Does EPA plan to fix the flooding and drainage problems that are now damaging area homes?

Answer 22A: Yes, EPA has addressed and is continuing to address drainage problems incidental to the remedial action. The site has historically had flooding and drainage problems. The communities surrounding the site are located in a flood plain and have been, and continue to be, severely impacted during periods of heavy rainfall (as was the case during record rainfalls in May and June 1999).

EPA has instituted several special actions because of the conditions that exist at the site, such as a unique policy that deals with larger properties greater than 20,000 square feet that have complicated drainage patterns, a set of contingency plans to deal with seasonal weather changes, and procedures to reduce damage to homeowner's utility connections.

EPA has also modified the composition of the backfill from topsoil only to a clay-topsoil mix that, according to the Corps of Engineers, would minimize uneven compaction, settling and drainage problems.

Flooding and drainage issues are also being addressed and studied from a regional perspective by the Governor's Tar Creek Superfund Task Force's "Drainage/Flooding Subcommittee," which was formed in January 2000. Flooding and drainage is recognized as a regional problem for Ottawa County and the task force will make recommendations to the Governor on these issues.

Question 22B: Does the Agency plan to expand the project using the contractor that has been doing work to date?

Answer 22B: No. EPA's prime contractor, the U.S. Army Corps of Engineers (USACE), will complete their current contractual obligations (the remediation of 1,300 residential properties) with the EPA in June 2000. USACE has decided not to extend the current contract to remediate 600 to 800 additional properties discovered after issuance of the Record of Decision for the Site.

EPA is currently preparing a Remedial Design Statement of Work (RD SOW) to be issued to one of two contractors as part of the Response Action Contracts program. The RD SOW will enable the contractor to solicit new subcontractors to perform the remedial action work. Once funding is secured, EPA will issue a SOW for the Remedial Action to complete the remaining residential soil cleanup.

Question 22C: Please describe any changes to its management and oversight of this project that EPA intends to implement as a result of concerns that have been identified.

Answer 22C: Since the Criminal Investigation, EPA has taken several management steps. EPA asked the Corps of Engineers to conduct an internal audit. The results of the audit showed that the Corps of Engineers should closely monitor the labor and equipment uses of its contractors. In response, the Corps of Engineers provided a "contracting expert" in the field to minimize contractual "red tape" at the site.

In addition, EPA conducted an "internal efficiency review" to reevaluate overall project management. Two Remedial Project Managers (RPMs) have been assigned responsibility for the management of the Site. One RPM is responsible for the residential lead cleanup (e.g., excavation of lead-contaminated soils and backfilling with clean soils) and the other is responsible for all other activities associated with the Site. This change will provide continuity to the construction phase of the project. Prior to the internal review, three RPMs were rotating assignments on a weekly basis to the site.

The RPMs from EPA Region 6 also met with RPMs from EPA Region 7 because of their cleanup experience in Joplin, MO. Although many differences exist between these sites, discussions were held regarding site procedures, equipment, and contractor personnel. One improvement at Tar Creek resulting from these discussions was a better use of site equipment.

RPMs and EPA managers are also participating in quarterly stakeholder meetings and monthly meetings of the Governor's Tar Creek Superfund Task Force in order to stay informed of the issues of concern at the site.

EPA has also made several management changes in response to specific resident concerns. Some of these concerns are summarized as follows:

- EPA met with the Ottawa County Commissioner to develop an agreement to repair county roads damaged by trucks hauling for the project; and
- EPA managers from several offices met to review the progress of the performance based contracting approach being used in the residential areas and suggested ways to reduce contracting disagreements quickly.

Question 23A: Registration of new pesticides is important to ensure that farmers and other users can continue to effectively control pests that threaten crops and public health, especially since FQPA reviews have resulted in cancellations of uses for several widely-used pest products. I understand that EPA plans to make registration decisions on 19 new pesticides this year, compared to 26 in 1999 and 27 in 1998, despite an 11% increase in the Registration Division's budget as requested by the Administration for FY 2000. (A) Why is productivity going down when funding is going up?

Answer 23A: Because the new chemical review process is 18 to 24 months, resource levels in one year affect the next year's outputs. Therefore, increases in resources for pesticide registration activities can take up to two years to result in increased outputs.

However, it is important to note that productivity is dependent upon factors other than funding. The additional human health and environmental protections mandated by FQPA has generally increased the time it takes to register new pesticides. For example, case-by-case application of new, cutting-edge science policies, and increased outreach efforts to stakeholders, are factors that are challenging the Agency as it attempts to process pesticide application expeditiously.

In addition, increased regulatory scrutiny of inert ingredients, and the requirement that EPA set tolerances for pesticides used under Section 18 (emergency exemption) of the Federal Insecticide, Fungicide and Rodenticide Act, have impacted the registration program. EPA typically processes hundreds of Sections 18s per year, with a turnaround time of two months or so.

Also, the number of some outputs are not within the Agency's control. For example, the number of Section 18s processed are dependent on field conditions, which change from year to year. Also, EPA's Registration Division and Antimicrobials Division eliminated the amendments backlog in 1999. Now, those Divisions process the number of amendments that come in each year. The amendment submission rate has declined. As the backlog has been eliminated, fewer amendments are pending in queue for decision-making.

EPA agrees that the registration of new pesticides is important to ensure that farmers and other users can effectively control pests and protect public health, and will continue to work hard to ensure that new, alternative pesticides are readily available.

Question 23B: EPA's FY 2001 Budget Request contains a 14% increase for EPA's pesticide registration program. How many new pesticide registration decisions does

EPA expect to complete in FY 2001, and how many of those are for conventional pesticides meeting EPA's safety standards?

Answer 23B: EPA expects to complete registration decisions for a total of 24 pesticide products in 2001: 17 reduced-risk and biological pesticides, and 7 non-reduced-risk and antimicrobial pesticides.

Question 24: EPA's August 1999 action resulting in the cancellation of certain uses of azinphos methyl and methyl parathion, two products widely used as an insecticide by apple growers, has resulted in the creation of a significant quantity of food in the food pipeline that contains residues from the canceled uses of those two products. The continued presence of an official tolerance on those food crops provides protection to those foods from being designated as "adulterated." Does the Agency intend to leave these tolerances in place until the food pipeline clears of these foods that contained legal residues prior to the EPA decision? How does EPA intend to handle this matter and when does it anticipate making a decision?

Answer 24: FQPA requires that EPA revoke the tolerances on those crops with canceled uses 180 days after the last day of legal use. EPA would take such action only through notice and comment rulemaking, giving commenters an opportunity to demonstrate a continuing need for the tolerance to cover imports.

After a tolerance has been revoked, legally treated food may continue to move through the channels of trade under the so-called "safe harbor" provision. Section 408(1)(5) of FFDCA, established by FQPA, generally allows commodities bearing residues of a canceled pesticide to move through commerce, provided that the commodities were lawfully treated with the pesticide while the tolerance was still in effect and the residue level on the commodity is no greater than that allowed under the tolerance.

Consistent with our belief that Congress did not intend that the safe harbor provision provide market advantage to either foreign or domestic growers, EPA reads FFDCA Section 408(1)(5) such that foreign growers must cease application at the same time as domestic growers in order to qualify for safe harbor.

The Agency will shortly propose to revoke or amend the existing tolerances for methyl parathion, and will seek comment on this proposal. The guidance supports the general safe harbor position that if the food was legally treated, the food remains safe for its lifetime. The Food and Drug Administration (FDA) in a related notice in the Federal Register will be announcing the availability of a proposed guidance document presenting FDA's policy on its planned enforcement approach for foods containing methyl parathion residues. This guidance will assist firms in understanding the types of showing under 408(1)(5) of the FFDCA (hereinafter referred to as the "channels of trade provision") that FDA may find satisfactory in accordance with its planned enforcement approach for such section.

Monitoring and enforcement of pesticide tolerances and exemptions are carried out by the FDA and the USDA. This includes monitoring for pesticide residues in or on commodities imported into the United States. We have worked closely with both FDA and USDA in developing the proposed tolerance revocation notice.

Also, the Agency will publish a final rule very shortly revoking and lowering certain tolerances for azinphos methyl, including those for which there are no longer registered uses, one for a crop that is no longer a significant animal feed item, and one for which studies show no concentration in the processed commodity.

Question 25: One of the more significant issues EPA faces as it restricts uses of widely used products based on the FQPA tolerance reassessment process is the extent to which there are available substitute products that provide equivalent or better efficacy, while presenting reduced health concerns. Because of the current backlog on pending registration requests, many new products may be years away from being approved by EPA as substitute products. What is the Agency doing to address the problem of the backlog?

Answer 25: To address the availability of substitutes needed as a result of tolerance reassessment decisions, EPA has made the review of reduced-risk and OP alternative pesticides one of its top registration priorities. Once received and classified, applications for these chemicals to the top of the registration queue. Based on recent statistics, these reviews and decisions are completed in about half the time they would have taken had the Agency not expedited the review.

We currently have about 45 new chemicals pending in-house. We expect to complete registration decisions on approximately 10 more of these chemicals this fiscal year, leaving 35 for review. Another 13 to 14 should be completed during FY 2001, leaving approximately 21 in-house. Of these, however, 2 are organophosphates and one is a carbamate, and, therefore, they are unlikely to be registered in the near term because of risk concerns for these chemical classes. Thus, only 18 new chemicals remain in backlog. A recent industry evaluation showed that over the past 15

years, the average review time for new active ingredient registrations has decreased by over 80 percent since 1984.

The Registration Division's FY 2000 Workplan, which shows the new chemical, new uses, and inert ingredient decisions, can be found on the EPA internet site at: <http://www.epa.gov/opprd001/workplan/>

Question 26: I understand that EPA is currently preparing to issue a revised risk assessment under the FQPA tolerance reassessment process for a widely used termite control product—chlorpyrifos—that may result in the Agency taking action to restrict its residential use. What is the status of EPA's review of this termiticide and when does the Agency expect to take action? What impact does EPA believe this will have on the availability of effective products to combat termites in the residential markets?

Answer 26: EPA released the preliminary risk assessment for public comment for chlorpyrifos on October 27, 1999. This preliminary assessment identified risks of concern for residential uses. Over 4,000 comments were received. On June 8, 2000, EPA released the revised risk assessment and announced an agreement with registrants to phase out/eliminate certain uses of chlorpyrifos. These actions are in accordance with the organophosphate pilot public participation process. EPA is soliciting public comments on further risk management options for this widely used pesticide.

The agreement will expeditiously address food uses posing the greatest risks to children. It decreases the use of chlorpyrifos on apples, cancels the use on tomatoes, and lowers allowable tolerance levels for apples and grapes. These actions will reduce acute dietary risk by 75 percent, effectively eliminating dietary risk concerns for children and others.

The agreement will also cancel and phase out nearly all indoor and outdoor residential uses. It effectively eliminates the use of chlorpyrifos by homeowners, limiting use to certified, professional, or agricultural applicators. Those uses that pose the most immediate risks to children, including home lawn, indoor crack and crevice treatments, and whole house "post-construction" termiticide treatments, will be canceled first. Spot and local post-construction and pre-construction termiticide uses will be phased out over the next several years. Besides chlorpyrifos, many other pesticides are available for termiticide use, including: permethrin, cypermethrin, imidacloprid, fipronil, bifenthrin, esfenvalerate, deltamethrin, and cyfluthrin. These can be used to prevent termite infestation and to rid structures of existing termite infestations. Cost and efficacy may vary by structure type, soil type, and other environmental factors. In addition, several bait systems have been introduced in recent years. The pesticides used in these baits include: sulfluramid, hexaflumeron, diflubenzuron, and hydramethylnon. These systems can reduce overall insecticide use and environmental impact as well as increase worker and homeowner safety.

Further, chlorpyrifos use in schools, parks, and other settings where children may be exposed will be canceled. Only use in some limited commercial settings, like warehouses, ship holds and railroad boxcars, may it continue. The agreement allows several other non-agricultural uses to continue, with appropriate risk mitigation. Golf course applications, for example, may continue with application rates reduced by 75 percent. Low risk uses like containerized baits in child-resistant packaging, and non-structural wood treatments such as treatments of utility poles and fence-posts, will not be affected by the agreement. It should be noted that one of EPA's top priorities is the expedited registration of substitutes to organophosphate pesticides.

Question 27A: Over the next five years over 200 companies, through a voluntary commitment with EPA under the High Production Volume (HPV) Challenge program will be providing unprecedented amounts of data and health information to the Agency on over 2000 chemicals. This program has the potential to inundate EPA with more information than it has staff and resources to adequately manage.

(A) Given the longstanding information management concerns identified by GAO over the past ten years at EPA, how does EPA plan to deal with the anticipated flood of data, and given how long it has traditionally taken the Agency to analyze such data, how does the Agency plan to analyze and make use of the information?

Answer 27A: Resources for the information management systems needed to handle the HPV data have been included in both the FY 2000 operating plan and the President's FY 2001 Budget Request. Assuming that the requested resources are made available, we anticipate no problems in designing or modifying our data systems and data processing procedures to handle the increased workload.

The screening level human health and environmental effects information being developed by industry sponsors under the High Production Volume (HPV) Challenge Program will be provided to the Agency in robust summary format, a format developed for the HPV Challenge Program and accepted for international data sharing

by the Organization for Economic Cooperation and Development (OECD) in its HPV Screening Information Data Set (SIDS) Program. This information will be posted to the Internet for review and assessment by both Agency personnel and outside interested parties.

Once this basic hazard information is available on a chemical, it may be used to provide a platform to begin to address the question, "how safe is this chemical?" EPA has existing risk assessment guidelines to prepare profiles on and prioritize chemicals for risk assessment. It must be noted that the hazard information being provided through the HPV Challenge Program is screening level data intended only to support the initial stage of assessing chemical hazards. HPV data would not be sufficient on its own for the preparation of formal risk assessments; additional hazard data (e.g., carcinogenicity; neuro-toxicity; etc.) and exposure data would be needed to conduct risk assessments. The resources requested for of the Chemical Right-to-Know Initiative will be fully encumbered in collecting, managing, and disseminating the limited hazard screening data and will not be used to develop formal risk assessments on any HPV chemicals.

Using established risk assessment guidelines, EPA plans to use the toxicity data to produce plain English chemical information profiles, Chemical Advisory notices, website enhancements, and other information tools as appropriate on individual chemicals of concern. EPA will work with the Consumer Product Safety Commission, the Occupational Safety and Health Administration, and other agencies to distribute this information to workers, consumers, parents, teachers, community leaders, public interest groups, companies, and others. EPA intends to use the information and experience it has gained in other public safety and education projects to create and distribute simple and understandable messages to the public.

In addition, by classifying chemicals as presenting high, medium, or low hazard concerns, the Agency may be able to explain to the public the hazards of a chemical in simple and practical terms. In the future, this could then be combined with exposure information (e.g., chemical use profiles and exposure scenarios relevant to the specifics of individual chemicals) to assess, at a screening level, the potential risks presented by the chemical to people or the environment in various defined circumstances—for example, to workers, to users of consumer products, or to the environment. The hazard of a chemical is generally seen as an "intrinsic" aspect of the chemical, whereas uses and exposures can change and be "situational" depending on the particulars of a given commercial application. For this reason, clear and concise hazard information may be useful outputs of HPV screening to the public.

Question 27B: What additional resources does the Agency anticipate setting aside to conduct the data evaluations?

Answer 27B: EPA realigned \$1.3 million of its FY 1999 Enacted Operating Plan to initiate the Chemical Right-to-Know Initiative (CRtK). In FY 2000, the Operating Plan for the CRtK Initiative is \$11.1 million, with approximately \$10 million directed at HPV chemicals and \$1.1 million supporting the start-up of the program to address chemicals of special concern to children. EPA's FY 2001 President's Budget Request contains a \$12.6 million request for the CRtK-HPV program. During the initial data collection phase of the HPV program, the bulk of these resources must be dedicated to managing and reviewing the incoming data. Public outreach efforts will include a dialogue with stakeholders to determine how they will use the data in order to identify the most appropriate formats, tools, and vehicles for effective public hazard communication.

Question 28: For the public to have confidence in the results of the Endocrine Disruptor Screening Program (EDSP), mandated by the Food Quality Protection Act and the Safe Drinking Water Act, the screens and tests must be fully standardized and validated. Last year, Congress approved \$12.7 million for endocrine research. EPA made some budget shifts, and the research account was reduced by about \$5 million for FY 2000. What is EPA's schedule for completing the validation and standardization of the screens and tests in the proposed Endocrine Disruptor Screening and Program? Is the Agency planning to propose a rule for the EDSP?

Answer 28: The scientific screens and tests proposed for the Endocrine Disruptor Screening Program vary considerably in terms of their readiness for routine use in regulatory programs. Because many of the endocrine disruptor screens and tests involve cutting-edge science, few of them have actually undergone the standardization and validation requirements necessary for pesticide and chemical regulation. Many of the tests proposed for the screening program have been used in research, but have never been formally standardized or validated through inter-laboratory comparisons. Standardization and validation is essential to establish the relevance, reliability, and reproducibility of methods. Therefore, EPA will validate all test systems to ensure that the tests are reliable and reproducible before implementing the testing phase of the program.

EPA formed a technical committee called the Endocrine Disruptor Standardization and Validation Task Force to provide the technical advice needed to develop, standardize, and validate the screens and tests proposed for the Endocrine Disruptor Screening Program. EPA is currently reconstituting the Task Force as an advisory committee under the Federal Advisory Committee Act. This does not affect the progress of the technical work, which is ongoing. EPA expects the advisory committee to resume its technical advisory functions in late Fall 2000.

Several years will be required to complete standardization and validation of the entire Tier 1 Screening and Tier 2 Testing batteries. However, EPA is moving as quickly as possible and anticipates implementing the screening program in phases, with initial emphasis on the legislatively mandated components of the Tier 1 Screening battery. Several screening tests have already entered the validation process, and we expect all the Tier 1 screens and one of the Tier 2 tests to be validated by 2003. The four remaining ecological tests require substantial development. One will be validated by 2003, two by 2004, and the last by 2005.

The standardization and validation process is being conducted using the general principles developed by the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM), as described in Validation and Regulatory Acceptance of Toxicological Test Methods (NIEHS 1997). However, there are also separate international standardization and validation efforts being conducted by the Organization for Economic Cooperation and Development (OECD). As these future tests are developed, EPA will examine their suitability for use and possible replacement of tests currently proposed for use in the screening and testing batteries.

Yes, the Agency is planning to propose a procedural rule for the EDSP. The rule will address procedural issues as well as provide technical guidance associated with screening. We anticipate proposing the rule and requesting public comments at least one year prior to issuing orders for screening.

Question 29: The Paperwork Reduction Act of 1995 required federal agencies to reduce paperwork burdens on regulated businesses by 25% by 1998 from the 1995 baseline. EPA has long been a serious generator of massive paperwork burdens on regulated businesses, so the PRA mandates were a strong Congressional signal that the government needed to address excessive and unneeded paperwork requirements. However, a March 2000 GAO audit concludes that EPA not only failed to meet the 1998 reduction goal, but over that period of time actually increased paperwork burden on businesses by 10 million burden hours to an annual total of 119 million burden hours of paperwork on American companies. What steps is EPA taking to come into compliance with this law and when does EPA anticipate achieving compliance?

Answer 29: The Agency's current burden reduction effort began January 1995, with the goal of reducing burdens on the public by 25%. EPA's burden at that time was 104 million burden hours. The Paperwork Reduction Act (PRA) amendments, enacted October 1, 1995, superceded this effort by requiring a government-wide reduction effort of 10% for FY 1996 and 1997, and 5% for years 1998 through 2001, rather than Agency-specific reductions. Since the beginning of the burden reduction effort on January 1, 1995, EPA has reduced burden about 32.0 million hours. However, these reductions were offset by 49 million hours of burden increases due to recalculations and new regulations and programs, including Right to Know efforts. To put these figures into perspective, the total government burden is 7 billion hours. EPA's FY 2000 paperwork burden projection is 125 million hours, or about 1.6% of the government total.

The creation of EPA's Office of Environmental Information has afforded opportunities for understanding and realizing burden reductions in the future. More specifically, we expect reductions from the various Electronic Reporting initiatives and the Information Integration Initiative and most certainly from EPA's Office of Solid Waste's burden reduction effort, where reductions of 3 million hours may be possible by late 2001.

Question 30: Last year EPA issued its "Risk Screening Environmental Indicators" model, which ranks facilities in a relative, "risk-related" way, but which does not attempt to estimate the actual risk that a facility poses. EPA says: "The result is not a detailed or quantitative risk assessment." In looking at this model, EPA's Science Advisory Board said "[the Agency has wisely recognized that the TRI indicators are ripe for intentional and unintentional misuse.]" This recognition has resulted in the repeated declarations by EPA that the indicators are relative and should not be used to measure risk. Now, however, Environmental Defense, has taken the model and applied it so that it generates purported absolute estimates of increased cancer risks from facilities. Why hasn't EPA spoken out about this misuse of its model, and what does the Agency intend to do to make the public aware of this misuse?

Answer 30: As a federal government agency, EPA neither publicly endorses nor criticizes the analyses of our data and development of mathematical models, or subsequent reporting of our data and adaptation of EPA models by other organizations. EPA's version and release of the "Risk Screening Environmental Indicators" model was accompanied by a description of the model's limitations, consistent with our peer-review protocols and strategic data quality goal to clearly and adequately describe the origins, quality, and limitations of the Agency's data and analytical models whenever they are made publicly available. When EPA receives inquiries regarding other organizations' use of our data, our policy is to refer them first to our description of the model and then to the appropriate organization to obtain their response on this issue.

Question 31: What is the status of the new Office of Environmental Information? Can you please describe the principle role of the new office and how it will interface with the traditional program offices?

Answer 31: In October 1999, EPA Administrator Carol M. Browner announced the formation of the Office of Environmental Information (OEI). OEI was established to meet the changing information needs of the public through the establishment of a central program office which is responsible for information management, information policy development and technology stewardship. OEI plays a key role in supporting EPA's mission to protect human health and the environment by integrating quality environmental information to make it useful for informing decisions, improving information management, documenting performance, and measuring success.

In addition to working internally to improve the quality of information and developing the infrastructure to support it, OEI also works closely with external stakeholders and partners to establish and oversee information-related policies and procedures. Such groups include representatives from state, local and federal agencies, tribes, the regulated community, interest groups, educators and the general public.

In order to accomplish the above objectives, OEI has set its FY 2000 priorities including a focus on these six areas: information integration; environmental information quality; fostering information based decisions; reducing burden; expanding Americans' right-to-know about their environment; and securing EPA's information infrastructure.

OEI will interface with the program offices through both workgroups and the Quality Information Council (an internal planning and management body formed to help EPA's National Program Manager for Environmental Information) to plan, develop, and implement information policies.

Question 31(A): Will the new office (OEI) oversee the quality of data used by the EPA programs in their regulatory and public right to know programs?

Answer 31(A): OEI has a number of responsibilities relating to data quality, including serving as the Agency lead for promoting quality assurance in the environmental programs. In this leadership role, OEI establishes the Agency policies for planning, implementing, and assessing the environmental data used to support the Agency's programs and decisions. However, each EPA organization (there are more than 40, including program offices, Regional offices, and research laboratories and centers) is responsible for developing a system of documentation and controls for documenting and evaluating the quality of the environmental data generated and used to support its decisions. Each organization develops a plan that defines the decisions that will be supported by environmental data and the processes that will be used to ensure that the data used are of the quality specified. OEI, through the Quality Staff, reviews the organizations' plans against the established policies to ensure that the policies are complete and consistent, and also evaluates the implementation of the policies and their effectiveness in providing environmental data of documented and appropriate quality.

OEI is also leading quality improvements in program data systems by using error prevention and error correction mechanisms. Central Exchange, Electronic Reporting, the Facility Registry System, and the development of data standards, are all ongoing activities that will directly impact the quality of EPA's data. Central Exchange will provide electronic data exchange between the states, facilities, and EPA, reducing errors from manual data entry and data transfer. The Facility Registry System is a centrally managed database that will use rigorous verification procedures to produce high quality, accurate, and authoritative facility identification records. Data standards simplify the use and analysis of data and help data managers identify incomplete or erroneous data fields. Additionally, under the direction of the Quality Subcommittee of the Quality and Information Council, OEI is developing a Quality Strategic Plan that will define roles and responsibilities, establish priorities, and outline implementation procedures for an Agency quality program.

Question 31(B): Will the program offices have to seek approval from the Office of Environmental Information prior to putting up new data bases and information resources on the Internet website?

Answer 31(B): EPA's program offices are not required to seek OEI approval for posting information resources and data bases on the Agency's Internet website. Recognizing that the appropriateness of the material and resources to be posted is best judged by the originating program office, each EPA Program Office Director (and regional equivalent) is responsible for conducting their own internal review and quality assurance process to assure that materials destined for website transmittal are timely, accurate, useful, and of appropriate content for posting on the Agency's public access Web site.

At the same time, EPA recognizes the need for Agency-wide policies and procedures that guide the development and dissemination of new information products in a consistent manner. These procedures may include formalized notification and participation by stakeholders (i.e. state and local governments; tribal, community, and environmental groups; industry trade associations, etc.) at different stages in the development process. This issue of stakeholder involvement in the development of significant Agency information products was a main topic of interest at the EPA/State Stakeholders Forum on Public Information Policies, held last Fall. As a result, to enhance our stakeholder outreach and feedback processes, the Office of Information Analysis and Access will develop and publish a periodic "Information Products Bulletin." This Bulletin is designed to inform interested stakeholders and the public of upcoming significant information products and provide some opportunity for feedback into their development. A joint State/EPA Workgroup has been established to define criteria for what information products will be included in the Bulletin as well as determining the descriptive elements and timing frequency for publication of the Bulletin which is expected to begin in March 2001. An "Interim Products Bulletin" of more limited scope and design will be released in August 2000 to provide some preliminary assessment of upcoming product development.

Question 31C: Does the new office intend to establish an Agency-wide error correction process that will enable regulated parties and users that identify errors to ensure that those errors are readily corrected across the Agency's information systems in which they appear?

Answer 31C: The Office of Information Collection, within OEI, has established an Integrated Error Correction Process for information in EPA data collections. The Integrated Error Correction Process is built upon established processes and networks for the reporting and correction of data errors.

It consists of a Web-screen for error-reporting, an on-line tracking and reporting system, an information flag to indicate a reported error, and extensive customer support. Reported errors will be researched and corrected by data owners, whether those data owners are from EPA Headquarters, Regions or states. Corrections will appear in individual systems as these systems are refreshed. In the meantime, an information flag will contain detailed information on the errors, and what the corrected value should be. On May 10, 2000 OIC initiated the IECF with the Facility Information system in Envirofacts. OIC will continue to implement the system for EPA's other publically accessible systems throughout the summer and fall of this year.

Question 32A: What types of data will EPA place in this new system (facility identifiers, geo-spatial data, compliance data, regulatory data, environmental quality data)?

Answer 32A: One of the first steps in EPA's integration efforts is to support a state/EPA data exchange Network that will include all of the above-mentioned data. As EPA, and its state partners, define the larger exchange Network, it is expected that new, individual data systems, as well as those listed above, will gradually be folded into the larger Network, in whatever form is most logical for the exchange Networks' architecture and goals.

Question 32B: What are the respective roles of the States and EPA in this new system? Who will be principally responsible for data quality in I-3?

Answer 32B: EPA and its state partners will define and participate in the development and use of the national Network for environmental information exchange, build and support the infrastructure needed to sustain the Network, and position EPA and its partners to participate in the Network and the data exchange it will facilitate.

The states and EPA are developing the national Network's design and operation principles and have included the following;

- An Agency is, by mutual consent between a state and EPA, explicitly recognized as the steward for specific environmental information that will become part of the Network.

- The steward agency manages its data, provides access to that data via the Network (together with an accurate description of the data and its context), and is accountable for the data's quality.
- Recognized aggregators and re-distributors of stewarded data are accountable for ensuring the faithfulness and currency of their local copies, using the steward agencies official Network source data.
- The Network employs a single set of common, negotiated, data exchange standards, and Internet protocols; it does not dictate or constrain internal agency systems, software, and other tools.

Question 32C: Will EPA be replicating data already held in States databases or will I-3 link federal Web pages back to the original state-based sources for most environmental data? If so, what is the "value-added" of I-3, over an approach that does not replicate state efforts but instead links EPA's existing site to the States site?

Answer 32C: State interest in defining the elements of streamlined environmental reporting and in working within multi-state institutions (i.e. ECOS, the National Governors Association) is already apparent, as states explore areas where they can consolidate and re-engineer data systems in order to streamline their business activities and share planning and regulatory information electronically. The Network, and the technical and organizational detail of its operation will be defined by states and EPA. What is envisioned is to use the technologies of the Internet by making a small but critical set of technology decisions together and, second, to develop and negotiate, through the partnership, the programmatic and operational agreements needed to begin the Network.

It should be noted that EPA also must be capable of acting as an Information Node on the National Exchange Network, both as an information receiver and an information provider. A key element of this goal is the establishment of an enterprise portal to securely accept data from its partners without their having to directly interface with EPA program systems. From this portal, EPA must be capable of transferring and transforming the information in its information systems. As an information provider, EPA must be capable of sharing its vast information holdings with others in a secure, responsible, and efficient manner, and thus will establish other portals for the distribution of data to its partners and to the public, as well as to internal EPA users.

The "value-added" components of a national network will be standards-based, highly interconnected, dynamic, flexible and secure, and operating with broad-based voluntary participation of the individual states and EPA. The network will become both a source of and pressure for more integrated and less burdensome programs at all governmental levels and a vehicle to facilitate the streamlining of those programs.

Question 33A: How many States have adopted the set of data standards developed under the Reinventing Environmental Information (REI) initiative?

Answer 33A: Under REI, EPA committed to establishing six key data standards to improve the value of environmental information, in collaboration with our state partners. The six key data standards were calendar representation of date, Standard Industrial Classification (SIC) and North American Industry Classification System (NAICS) codes, Facility Identification, Latitude/Longitude, Chemical Identification, and Biological Taxonomy. Of the six standards, four have been approved by the Agency; Chemical Identification and Biological Taxonomy are scheduled to be completed by September 30, 2000. Of the four approved standards, EPA is comfortable that all of the states are fully compliant with the standard for calendar representation of date. We are also comfortable that EPA and the states have conformed to the standard representations for SIC and NAICS codes. Efforts to ensure that mapping between the two industrial classification codes is completed. On the Facility Identification Data Standard, EPA has worked very closely with states on the Data Standard model. The EPA standard is a federal implementation of the Facility Identification Template for States (FITS) developed through the support, cooperation, and analytic cooperation of 16 state agencies and EPA. FITS represents a set of guidelines for managing facility based information. It reflects a fundamental change in how states and EPA solve their information problems and a new recognition for the value of collaboration. The FITS guidelines do not specify a deadline, but are intended to help states succeed at integrating Facility Site information and, at the same time, align themselves to be compatible with the state/EPA facility identification standard. EPA is just beginning to work with states on implementation of the Latitude/Longitude standard. After the Chemical Identification and Biological Taxonomy standards are approved, EPA will work with the states on implementation.

Question 33B: What, if any, reporting burden has EPA reduced for states or the private sector as a result of its data integration?

Answer 33B: Burden hour reductions have not been quantified at this early stage of implementation, since the effort thus far has been to establish an infrastructure. Implementation focuses on developing and incorporating data standards and electronic reporting into 13 of EPA's national information systems. Promulgation of all necessary standards, policies, and protocols are projected to occur by the end of FY 2001. As each new data and reporting standard becomes ready for implementation, each national system is projected to incorporate it by the end of FY 2003, either through retrofitting existing systems or including the standard in system re-engineering efforts.

Question 33C: Last year the Agency looked very favorably on another initiative—one to create an Environmental Data Registry. But what has happened to the effort and the spending that we allocated towards its completion? Has EPA ever developed a compendium of the data it already collects?

Answer 33C: The EPA has developed a web-based metadata registry, based on an ISO 11179 standard, called the Environmental Data Registry. The Environmental Data Registry is designed to be the single, comprehensive source of information about EPA data. This metadata registry serves two purposes: (1) as a reference tool, it catalogues existing Agency data resources and provides the information needed to interpret the data; and (2) as a repository of standard data elements, it promotes the development and use of standard data elements in Agency systems to enable effective data sharing. The Environmental Data Registry serves to document the diversity of data formats across Agency systems through central storage of application metadata, while converging on consistency through the availability of standard formats for data elements and commonly used domain values. The registry serves as the foundation to the Agency's standard setting process and an analytical tool to identify standardization opportunities.

Currently, the EDR contains 5,155 data element records. Of these, more than 4,600 are "application" data elements that document attributes of data elements in existing EPA information systems. Metadata documenting Agency information systems is being loaded on an ongoing basis. The application supports the efforts of several Agency work groups that are developing standardized representations for data elements used across the enterprise. The data registry is available through the Agency's website at www.epa.gov/edr.

Question 34A: Where is EPA's report to Congress on how its policies affect the viability of confidential business information claims as directed in the Senate report?

Answer 34A: EPA is currently in the process of examining its statutes, regulations, and policies to determine the extent to which they may affect the viability of confidential business information (CBI) claims. We also plan to publish an advance notice of proposed rulemaking in late spring that will seek public comment on possible CBI revisions. Subsequent to publication, the Agency will convene a public meeting in early summer to solicit further stakeholder comment on its CBI regulations. As cited in Margaret Schneider's letter to Chairman Bond (R-MO) and the March quarterly appropriations report, we will be pleased to provide you with a report of our review of our existing statutes, regulations, and policies by June 1, 2000.

Question 34B: What actions has EPA taken to work with other agencies to develop a decision-making process inside the government for resolving disagreements about the balance between information disclosure and national security interests?

Answer 34B: EPA and the Department of Justice (DOJ) have recently (April 27, 2000) published a joint proposed rule-making. This proposal was the result of many months of intense effort among DOJ, the Office of Management and Budget, and EPA. This was a response to the August 1999 statute, the Chemical Safety Information, Site Security, and Fuels Regulatory Relief Act, which called for DOJ-EPA cooperation for setting requirements under Section 112(r) of the Clean Air Act; specifically the handling of risk management plans and off-site consequence analysis information under 112(r).

As part of EPA's effort to improve security, EPA's Office of Environmental Information is conducting an assessment through September 2000 to determine how EPA offices are handling different types of sensitive information and to provide guidance on the general level of protection that should be provided for each type of information. This analysis will provide a good foundation for internal and external discussions on whether and how to disclose particular types of information. The issue of balancing information disclosure with the protection of public safety is not limited to EPA, and could potentially affect a number of Federal agencies. EPA would be interested in participating in an *interagency process* to discuss a government-wide decision making process and criteria for addressing this issue.

Question 34C: What is the status of EPA's efforts to work with experts to address information accountability issues and assess the Administrative Procedures Act implications of EPA publication of environmental information?

Answer 34C: EPA is currently evaluating the appropriate approach to, and scope of, a review of these issues, and will keep the Committee informed of our ongoing efforts. In addition, there are numerous ways in which the Agency is focusing additional attention on the issue of stakeholder input to important information products. EPA currently has established a joint workgroup with state partners to create a system for informing stakeholders about significant information products under development, including a means for stakeholders to review and comment on these. EPA will include in this work an opportunity for expert and stakeholder comment on the process and definitions. We expect to publish the first bulletin for comment under this process in the second quarter of the next fiscal year.

The new Office of Environmental Information (OEI) was created to provide leadership across the Agency on major information policies. A key consideration about the effectiveness of OEI is how it will guide other program offices.

Question 35A: The Office of Enforcement (OECA) has indicated that it may expand the Sector Facility Indexing Project. What role will OEI play in this decision?

Answer 35A: EPA announced earlier this Spring that Sector Facility Indexing Project (SFIP) will be expanded to include a subset of federal facilities. This expansion will encourage greater accountability on the part of federal facilities, and will allow the public to obtain important compliance and inspection information about these facilities located in their communities.

EPA's decision to expand SFIP is consistent with results of its evaluation of the first year of SFIP operation. For the evaluation, which was completed in December 1999, the Office of Enforcement and Compliance Assurance (OECA) obtained input from user groups both inside and outside the Agency, including staff of what is now the Office of Environmental Information (OEI). In addition to OEI, OECA obtained feedback from other Headquarters' offices, EPA's Regions, the States, industry, environmental groups, and trade associations.

The evaluation's results were positive. Extensively used, SFIP has enhanced public access to and knowledge of facilities' environmental performance. The project is cited for improving multimedia facility profiling; providing useful data in a "user-friendly" website; improving data quality in underlying databases; and serving as an incentive to achieve and maintain compliance. Moreover, the evaluation identified widespread interest for an expansion of SFIP to build upon the project's success and make it an even more valuable analytical tool. Many of the stakeholders contacted during the evaluation indicated that federal facilities would be a useful addition to the SFIP. As we move forward with SFIP, we will continue to consult with and coordinate our efforts with all relevant stakeholders, including OEI.

Question 36A: What is the status of the CEIS, and how was the funding that was poured into developing the Center in the past three years expended. Please describe in detail how these expenditures were used and what results were produced from this project?

Answer 36A: CEIS functions were merged with the new Office of Environmental Information when OEI was officially launched in October, 1999. The CEIS expended its funding to produce:

- Reports on each of the public meetings, focus groups, and surveys (including the National Telephone Survey) that were conducted to evaluate the public's needs for environmental information; research on existing EPA data users, regional stakeholders and the American public's interest in seeking and using data and information; the questions that the American public want EPA to answer about their health and the environmental interests; and research and analysis of data and information to be compiled and made accessible as "Environmental Profiles" via the CEIS web site.
- A nationally-recognized web site (with customer service) providing one-stop, public access to EPA air, water, waste management, drinking water safety, toxic release, and related data at the county, state and national levels (both in English and Spanish).
- An on-line "Environmental Atlas" containing over 250 maps and spatial data sets of national, state and local environmental quality, status and trends.
- Internet linkages to other peer-reviewed and publicly available federal agency reports and publications covering environmental quality topics.
- Downloadable, search, and analytical tools to explore EPA data sets (e.g., TRI Explorer).
- Working to partner with states, tribes, community-based, and local governmental organizations to develop background reports and issue papers leading to last November's "Information Management Forum" in Chicago.

- Assessments of the suitability of using data from various EPA databases for additional applications.
- Assessments of the suitability of using data from more than a dozen EPA databases for purposes other than which they were originally intended, but which might provide the basis for decision-making.
- Coordinating outreach to both English and Spanish-speaking Americans with EPA's National Service Center for Environmental Publications, the federal depository library system, the Government Printing Office, public libraries, and other educational organizations.
- An early assessment of data gaps to identify Agency needs to obtain additional data and information (from the perspective of our state partners, stakeholders, advisory groups and internal information resources managers).

Question 36B: When will EPA release the results from the CEIS survey on public needs as well as similar work conducted under the EMPACT program?

Answer 36B: Peer-reviewed, technical reports of the results of the CEIS survey and similar work conducted by the EMPACT program are available for review. We do not plan to release these publicly because they are intended to be internal Agency planning documents. We do intend to incorporate the findings of these surveys and related EMPACT work in our program planning and the Agency's public access strategy, which will be drafted in consultation with our stakeholders and released for public comment this fall.

Question 36C: That analysis, if any, does EPA conduct on how the public uses the large number of offerings on the EPA Web site?

Answer 36C: Public usage of EPA's Internet Web site has increased dramatically in the last year, from an average of 60 million hits in December 1999 to more than 93 million hits in April 2000. Our Web sites include more than 300,000 individual pages of materials—covering the spectrum of information from regulatory guidance to compliance assistance; consumer tips to children's issues. Our analysis show us that information about the Agency's regulations and their impact on the regulated community are among the most frequently requested items. Content that explains regulatory requirements accompanied by technical or compliance assistance information is by far the most popular. While we cannot be certain exactly how this information is utilized, one can infer that the regulated community is using this information to better understand, and to more effectively comply, with our environmental regulations.

Beyond the regulated community there is a significant number of users who are seeking information about a wide array of general environmental interests. Our Internet Web site offers a feedback mechanism that allows users to ask questions or offer comments about their needs and concerns. We rely on the comments that they voluntarily send to us as a source of data on how they use our resources. Parents, teachers, and students say that they use our resources for school projects and to protect their families when they are concerned that environmental conditions might pose health risks in their communities—examples include joggers seeking information on ozone alerts; prospective home buyers seeking information on radon testing; and homeowners looking for information on proper disposal of lead-based paint. Researchers and educators use our Web site to stay on top of the latest scientific and technological advances. Many visitors comment on how they rely on our Web site to find jobs, internships, technical assistance, policy guidance, and funding for their programs and projects. As the use of the Internet expands, we are also receiving comments from retirees who want information to help them decide where to relocate; and from the financial community seeking information to rate a company's environmental performance.

Question 37: Pursuant to the FY1999 Omnibus Appropriations Act, OMB has amended Circular A-110 to provide public access to federally funded data through FOIA requests. In March, a joint interim final rule was published in the Federal Register codifying these changes in the agencies regulations. What progress has EPA made in implementing these data access provisions, including the cost reimbursement mechanism to the grantees?

Answer 37: A Workgroup was established to develop the procedures to provide public access to federally funded data. The Workgroup has developed a draft Notice and Guidance for EPA Grantees and Applicants, including an Overview of the Freedom of Information Act (FOIA) process, and a list of Frequently Asked Questions. The Notice explains how access would be achieved when a request is made under the Amendment to OMB Circular A-110. The Notice will be posted on the EPA Grants Information Home Page of the EPA Office of Administration and Resources Management web site. The web site will be used to update information as we gain experience with the implementation process. (See <http://www.epa.gov/ogd/>)

The FOIA Overview portion of the Notice and Guidance for EPA Grantees and Applicants includes a discussion on both the costs to the EPA and the costs incurred by the grantee institution, which will be accounted for separately. The grantee institution will provide the data and the cost of providing the data to EPA. EPA will prepare and send the FOIA response and an invoice for charges incurred by EPA and the grantee institution. The FOIA requester will be instructed to make separate payments to EPA and the grantee institution.

Currently, the final draft Notice and Guidance for EPA Grantees and Applicants is under review. We expect to complete the Notice and post it on the EPA web site by the end of August, 2000.

Question 38: What is the status of the Agency's ongoing and extensive review of the Cancer Risk Assessment Guidelines? When does the Agency anticipate putting out the revised guidelines, and what are the principal issues that have resulted in the extensive review period?

Answer 38: Revisions to EPA's 1986 Guidelines for Carcinogen Risk Assessment were proposed for comment on April 23, 1996 and initially reviewed by the Agency's Science Advisory Board (SAB) in February 1997. The SAB provided their initial comments to the Agency in September 1997.

In January 1999, the SAB conducted a second review of several key sections of the Proposed Guidelines which had been revised by the Agency to address the comments from the earlier SAB review and the public comments. On July 29, 1999, EPA received the SAB's recommendations on these revised sections.

Although the 1996 Guidelines generally addressed the issue of sensitive populations, specific guidance was not provided on assessing risks to children. The initial SAB review and several public comments urged the Agency to provide more specific guidance in this area. When the Guidelines were proposed in 1996, Executive Order 13045 had not been issued. In order to address the recommendations of the SAB and the requirements of the Executive Order, the Guidelines have been revised to provide specific guidance on assessing children's risk. A third review by the SAB was conducted in July 1999 which dealt with this new material. Final recommendations from the SAB are expected next month.

Currently, the Agency is revising the Proposed Guidelines to reflect the SAB recommendations from the January 1999 review and awaiting the recommendations from the July 1999 review. It is anticipated that final revisions will be completed this summer and the Guidelines will undergo interagency review and final Agency clearance later this year.

Question 39: The Office of Research and Development conducted research in support of EPA rule-making activities and other activities relating to the implementation of various environmental laws. For example, ORD conducts research that is necessary to promulgate new drinking water and clean air standards. Please provide a breakdown of the research activities conducted by ORD under the Science and Technology Account which relate to statutory obligations of the EPA program offices regarding their regulatory activity or other activity to implement environmental laws? Please include all activities whether they are specifically related to pending regulations, guidance or any other work product relating to implementation of the standard setting provisions of the Clean Air Act, the Safe Drinking Water Act, the Toxic Substances Control Act, the Compensation and Liability Act, the Resource Conservation and Recovery Act, the Food Quality Protection Act, the Emergency Planning and Community Right to Know Act and the Pollution Prevention Act.

Answer 39: As the question indicates, authority for EPA to conduct environmental research, development, and demonstration activities is provided for in multiple statutes. Primary authority is provided in the Environmental Research, Development, and Demonstration Authorization (ERDDA) Act. Although there have been efforts to reauthorize ERDDA, the most recent version of the statute was passed in 1980 (Public Law 96-569). This version authorized resources to be appropriated for EPA to conduct environmental research, development, and demonstration activities in the following areas: air quality, water quality, water supply, solid waste, pesticides, radiation, toxic substances, and interdisciplinary programs (e.g., health and ecological effects, monitoring and technical support). In addition, resources were authorized to be appropriated for program management of the Office of Research and Development.

ERDDA (1980) referred to other environmental statutes that authorize EPA to conduct environmental research, development, demonstration, and related activities. These included the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, the Solid Waste Disposal Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Public Health Services Act, and the Toxic Substances Control Act. In addition, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (Superfund) authorized EPA to conduct research,

development, and demonstration activities on hazardous wastes. Since 1980, many of these environmental statutes have been either reauthorized and/or related legislation passed, e.g., the Safe Drinking Water Act of 1996 and the Food Quality Protection Act of 1996.

The table below indicates for each GPRA goal authorizing legislation for ORD's research activities in that goal. As described above, these authorities complement those provided by ERDDA.

In addition, EPA provides very specific descriptions of its research by Goal as part of its President's Request to Congress.

Goal 1: Clean Air Research

- Clean Air Act (CAA) (42 U.S.C. 7401-7671q)

Goal 2: Clean and Safe Water Research

- Safe Drinking Water Act (SDWA)
- Clean Water Act (CWA)
- Federal Insecticide, Fungicide and Rodenticide Act (FIFRA)
- Toxic Substances Control Act (TSCA)
- Resource Conservation and Recovery Act (RCRA)
- Clean Air Act Amendments (CAA)
- Pollution Prevention Act (PPA)

Goal 3: Safe Food Research

- Food Quality Protection Act (FQPA) of 1996
- Federal Insecticide, Fungicide and Rodenticide Act (FIFRA)
- Toxic Substances Control Act (TSCA)
- Federal Food, Drug, and Cosmetic Act (FFDCA)

Goal 4: Safe Communities Research

- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)
- Toxic Substances Control Act (TSCA)
- Federal Food, Drug, and Cosmetic Act (FFDCA)

Goal 5: Better Waste Management Research

- Resource Conservation and Recovery Act (RCRA)
- Oil Pollution Act (OPA)
- Solid Waste Disposal Act (SWDA)
- Hazardous and Solid Waste Amendments (HSWA)
- Clean Air Act Amendments (CAA)

Goal 6: Global Change Research

- U.S. Global Change Research Program Act of 1990
- United Nations Framework Convention on Climate Change
- National Climate Program Act (1997)

Goal 7: Right to Know Research

- Clean Air Act (CAA) and amendments
- Clean Water Act (CWA) and amendments
- Environmental Research, Development, and Demonstration Act (ERDDA) of 1981
- Toxic Substance Control Act (TSCA)
- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)
- Food Quality Protection Act (FQPA)
- Safe Drinking Water Act (SDWA) and amendments
- Federal Food, Drug and Cosmetic Act (FFDCA)
- Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986

Goal 8: Sound Science

- Environmental Research, Development, and Demonstration Act (ERDDA) of 1981
- Clean Water Act (CWA) Title I (33 U.S.C 1251-1271)
- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) of 1988
- Federal Food, Drug, and Cosmetic Act (FFDCA) of 1988
- Food Quality Protection Act (FQPA) of 1996
- Toxic Substances Control Act (TSCA) of 1976
- Clean Air Act (CAA) and amendments
- Environmental Research, Development and Demonstration Act (ERDDA)
- Federal Insecticide, Fungicide and Rodenticide Act (FIFRA)
- Toxic Substances Control Act (TSCA)
- Food Quality Protection Act (FQPA) of 1996
- Safe Drinking Water Act (SDWA) and amendments
- Resources Conservation and Recovery Act

- Pollution Prevention Act of 1990

Question 40: Many Federal and State environmental programs rely on EPA's IRIS (Integrated Risk Information System) database for making decisions. IRIS contains summarized information about the risks posed by the various substances, including safe levels of exposure. There are substantial problems with the currency and adequacy of the information in the database, and Congress directed the Agency to study the problem in last year's budget Report language.

Question 40A: What is the status of the Agency's study of IRIS pursuant to the Report language?

Answer 40A: In its FY 2000 Appropriations Committee Report Congress directed EPA to "consult with the Science Advisory Board (SAB) on the design of a study that will a) examine a representative sample of IRIS health assessments completed before the IRIS Pilot Project, as well as a representative sample of assessments completed under the project and b) assess the extent to which these assessments document the range of uncertainty and variability of the data. The results of that study will be reviewed by the SAB and a copy of the study and the SAB's report on the study sent to the Congress within one year of enactment of this Act." EPA consulted with the SAB Nov. 29, 1999 and again on March 7, 2000 on an approach to this study. The study is now underway. Selected experts from outside of the Agency are reviewing a representative sample of IRIS assessments in depth, and will provide the Agency with their evaluation this summer. Though not specifically addressing currency or accuracy, the study will determine whether IRIS assessments developed using a new process adequately presented and discussed the range of uncertainty and variability in the data used to develop the assessments.

Question 40B: What is the Agency doing to ensure that the IRIS database contains the best available scientific information about the substances contained in the database? What resources has the Agency allocated to improving the IRIS database?

Answer 40B: Since 1995, EPA has taken several steps to ensure that the best available scientific information is included in IRIS assessments. On an annual basis, EPA announces the next set of chemicals to be considered in the IRIS program, either to update an older assessment, or to be added to the database. This announcement includes a request for all relevant information to be submitted to EPA for consideration in the assessments. In addition, all IRIS assessments go through an external peer review, which can include a public meeting permitting more notice of relevant information. All scientific questions and responses generated through the external reviews are available to the general public.

For the FY 2001 President's Budget Request, EPA requested a total of \$1.7 million under the R&D program to support the IRIS database. Some key areas of effort in 2001 will include producing, updating, and maintaining health assessments on IRIS, ensuring appropriate external peer review of IRIS summaries and support documents, facilitating Agency consensus and resolving issues in a timely manner, and maintaining a widely-accessible Internet version of IRIS, available at the local level to support community-based environmental protection.

Question 41: EPA has requested \$403.8 million for FY 2001, an 8% increase in the enforcement budget than this year. This includes increases in compliance monitoring, and civil and criminal enforcement. For what specific programs is the Agency seeking the increase, and how would the Agency intend to allocate such additional funding? Can you further elaborate on the Agency's enforcement priorities for FY 2001?

Answer 41: In FY 2001, the Agency is seeking an increase of \$31.0 million for the Deterrence Goal (Goal 9) over FY 2000. There are six EPA program offices requesting funds under the Credible Deterrence Goal. The Office of Enforcement and Compliance Assurance (OECA) is requesting an increase of \$24.6 million; the Office of Administration and Resources Management (OARM) is requesting an increase of \$6.0 million; and, the remaining \$0.4 million is requested by the other four program offices, including: Office of Solid Waste and Emergency Response (OSWER), Office of the Chief Financial Officer (OCFO), Office of General Counsel (OGC), and Office of Environmental Information (OEI).

OECA, +\$24.6 Million (\$21.1M in EPM, \$0.9M in S&T, and \$2.6M in Superfund)

Background Statement on EPM appropriation: From 1996 to 2001 OECA's EPM payroll needs have increased from \$158 Million to \$203 Million, an increase of \$45 Million, while at the same time FTE's have slightly decreased. While there has been a minor decrease in workyears, there has been a significant decrease in the EPM extramural resources needed to support the work of the Federal workforce. In addition, there have been new statutory mandates as well as a significant increase in the size of the regulated universe during these years of economic prosperity for the nation.

Because OECA has not received sufficient increases to cover EPM payroll needs to maintain the enforcement workforce, the EPM extramural budget during this same period has decreased by \$25 Million from \$51 Million in 1996 to \$26 Million in 2000, a decrease of nearly 50%. These extramural dollars provide the technical support for inspections and investigations, data management, and litigation support, including expert witnesses. It also includes the contract support providing technical expertise for review of the Environmental Impact Statements and Environmental Assessments required by NEPA and section 309 of the Clean Air Act.

What the FY 2001 request does, is provide adequate payroll funding for the existing workforce, restores some of the badly needed extramural resources, and provides funding for some critical areas.

EPM increases of \$21.1 Million from FY 2000 to FY 2001

+ \$11 million payroll for the existing workforce less our FTE reductions for next year. This is needed to cover payroll increase and enrichment for OECA's EPM workforce of 2,203 FTE. Because we are an enforcement and compliance assurance office involved in inspections and monitoring, civil and criminal investigations and litigation, developing and implementing enforcement and compliance policy and guidance, e.g., the self-audit policy, NEPA, much of what we do is inherently governmental and cannot be contracted out. Therefore, we have a large payroll increase each year just to maintain our existing workforce.

+ \$2.5M lead based paint for hiring approximately 35 Senior Environmental Employment (SEE) inspectors for the EPA Regions to inspect housing units for compliance with lead-based paint rules. This is part of the Agency's children's health initiative.

+ \$2.6M Integrated Information Initiative (formerly GEMS) development, a consolidated enforcement and compliance information management system to support core program needs and provide integrated data necessary for risk-based strategies. This is part of the Agency's system needs and modernization efforts.

+ \$5 M Critical Base Funding restoration of extramural resources is needed to continue a healthy Federal environmental enforcement and compliance assurance program. Under our current funding levels not all necessary inspections will be done, some significant violations will not be addressed, access to data necessary for targeting and evaluation is not available because of funding shortfalls, needed data and information system enhancements are not being developed or implemented, and support for the environmental justice program and NEPA implementation efforts has been restricted. This increase will allow for restoration of some funding to these critical areas.

Science and Technology (S&T) increases of \$0.9 Million from FY 2000 to FY 2001

Increase covers payroll increases and enrichment for OECA's S&T workforce of 78 FTE under Goal 9. In addition, dollars support the National Enforcement Investigations Center (NEIC), including \$0.8 million which will help to complete the New Facility for NEIC to accreditable specifications and the move into it. This laboratory is also supported by the Superfund appropriation.

Superfund increase of \$2.6 Million from FY 2000 to FY 2001

Increase covers payroll increases and enrichment for OECA's Superfund workforce of 101 FTE under Goal 9. In addition, dollars support the criminal and civil enforcement efforts, including \$0.2 million which will help to complete New Facility for the National Enforcement Investigations Center (NEIC) to accreditable specifications and the move into it. This laboratory is also supported by the Science and Technology appropriation.

OARM, +\$6.0 Million

Most of this increase supports the Agency's mandatory rental and lease agreements.

FY 2001 Priorities for the Enforcement and Compliance Assurance Program

In April, 1999 the Office of Enforcement and Compliance Assurance (OECA) issued the FY 2000/2001 Memorandum of Agreement (MOA Guidance which set forth the goals, priorities, and major activities for the national enforcement and compliance program over this two-year period. These priorities include: Clean Water Act—Wet Weather; Safe Drinking Water Act—Microbial Rules; Clean Air Act—New Source Review/Prevention of Significant Deterioration (NSR/PSD and Air Toxics; Resource Conservation and Recovery Act—Permit Evaders; Petroleum Refinery Sector; and, Metal Services (Electroplating and Coating) Sector. These priorities are described in greater detail in the FY 2000/2001 MOA guidance, which can be found at: <http://>

Question 42A: What resources is the enforcement office requesting for EPA efforts on compliance assistance and incentives for the regulated community?

Answer 42A: The Office of Enforcement and Compliance Assurance (OECA) is requesting a total of \$24.4 million for compliance assistance and centers; \$5.7 million for key program compliance incentive efforts; and a total of \$3.3 million for Project XL and the Common Sense Initiative.

Question 42B: What are the new targeted sector initiatives for voluntary self-disclosure and violation correction?

Answer 42B: The three attachments describe new initiatives developed under EPA's voluntary disclosure program. EPA develops some of its initiatives based on trends it identifies during inspections, disclosures made under the Audit Policy, or other opportunities that arise outside the context of long-term planning. Because of that, it is possible that other initiatives may be developed in the short-term.

Question 43: In February 2000, EPA's Inspector General completed an audit of EPA's Financial Statements for FY 1999. That means it reviewed the EPA Budget and related financial statements, like the one before us today for FY 2001, and the IG concluded that for FY 1999, the EPA financial statement contained "weaknesses that resulted in the Agency being unable to provide complete, accurate and reliable statements, footnotes and supplemental information by the agreed upon dates." The IG found that "the financial statements provided to us for the purpose of expressing an opinion were incomplete and contained significant errors." What is EPA doing to rectify this unclean bill of financial health in order to ensure that these accounting errors won't persist?

Answer 43: We intend to continue to work closely with the EPA OIG to obtain a clean opinion on EPA's Financial Statements. Toward the end of the audit, the IG raised questions regarding single line items in two of our six financial statements. One of the questioned amounts was reflected in a footnote to our Statement of Changes in Net Position and the other in our Statement of Financing. Because these questions could not be resolved and audited before the March 1 statutory due date for issuing the financial statement, the Agency received a qualified opinion.

There was no issue concerning losses or misappropriation of funds. Rather, the issue was the sufficiency of documentary support for the two line items in question. We have taken steps to address the questions raised by the IG. We worked with our contractor to develop documentation to address IG's questions on the Statement of Net Position and engaged a general ledger expert from the Department of the Treasury who confirmed our analysis of the amount questioned in our Statement of Financing.

Finally, EPA recognizes that we need to improve our process for preparing the financial statements and we are taking appropriate actions. We have engaged experts from the Treasury Department to review our books and provide additional training to our staff on analytical techniques. Furthermore, we are taking steps to improve our quality controls as well as strengthen our planning and coordination with the auditors.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
August 29, 2000

The Honorable SHERROD BROWN
Ranking Minority Member
Subcommittee on Health and Environment
Committee on Commerce
U.S. House of Representatives
Washington, D.C. 20515

DEAR CONGRESSMAN BROWN: Enclosed please find a complete set of our responses to the follow-up questions, for the record, following the March 30, 2000 hearing on the Environmental Protection Agency's FY 2001 Budget, which were received on April 18, 2000. As you know, we have already provided responses to thirteen questions previously sent to you on June 14, 2000.

Thank you for the opportunity to respond, to your request. I hope that EPA's input will prove valuable to the Committee.

Sincerely,

DIANE E. THOMPSON
Associate Administrator

Enclosures

COMMITTEE ON COMMERCE; SUBCOMMITTEES ON FINANCE AND HAZARDOUS
MATERIALS AND HEALTH AND ENVIRONMENT 3/30/00 HEARING

Question 1. Scientists from the EPA, other Federal agencies, and the general scientific community have been conducting a comprehensive reassessment of dioxin exposure and human health effects since 1991. Assistant Administrator Noonan has informed the Committee staff that the final three chapters of this important report relating to Toxic Equivalence, Dose Response, and Risk Characterization will be released to the public during the first week of May 2000. Please confirm that this is the release date for the remaining chapters of the dioxin reassessment and indicate the nature and timing of the public review process.

The U.S. Environmental Protection Agency's (EPA) is processing toward completion of its reassessment of dioxin exposure and human health effects entitled, "*Exposure and Human Health Reassessment of 2,3,7,8-Tetrachlorodibenzo-p-Dioxin (TCDD) and Related Compounds*" and the Agency expects that the completed reassessment will be publicly available by the end of the year. The following paragraphs provide information on the processes and schedule to complete the dioxin reassessment including Federal interagency review, public review and comment, and external scientific peer review.

In May, preliminary drafts of the chapters needing further external review were distributed to other Federal agencies for their review and comment. As part of this interagency review, an interagency Working Group (WG) on Dioxin has been convened under the auspices of the National Science and Technology Council (NSTC).

On June 12, the Integrated Summary and Risk Characterization and the Toxic Equivalence Factors (TEF) chapters were submitted to an external peer review and the two draft documents were made available to the public for review and comment. The June 12 Federal Register notice announced: 1) a two-day peer review meeting on July 25-26, which is open to the public as observers, 2) the availability of the external review drafts, and 3) the beginning of the public comment period. This will be a "rolling" public comment period; that is, the Agency will continue to take public comments through the final step in the review process, the review by the Science Advisory Board (SAB). This means one continuous comment period will be used to cover both the peer review drafts and the later drafts to be submitted to the SAB. The external review drafts will be available on the Internet (downloadable file), on CD ROM along with the previously reviewed and approved chapters, and in a limited number of paper copies.

Based on comments received from the interagency review, the peer review panel and the rolling public comment period, the Integrated Summary and Risk Characterization and the TEF chapter, will be revised, as appropriate, and formally submitted to the SAIB for review. Also submitted to the SAB for review will be the revised Dose-Response Modeling chapter.¹

The SAB meeting to review these three sections of the dioxin reassessment is being planned for October. SAB meeting are open to the public and the SAB also solicits public comment on the draft documents. Final SAB approval is needed to produce a final EPA dioxin reassessment document for public release.

Question 2: In 1998, the EPA initiated a new program to assure that basic toxicity data are publicly available for widely used industrial chemicals. One key component of the High Production Volume (HPV) Chemical Data Initiative was the EPA's commitment that it would issue mandatory test rules to close the gaps on chemicals that were not voluntarily sponsored. Is it correct that the EPA rules were scheduled to be finalized in December 1999, but the proposed rules are now at the Office of Management and Budget? If so, please specify when the proposed rules were submitted to OMB and the date when you expect to issue the proposed rules.

Created in cooperation with industry, environmental groups, and other interested parties, the primary component of the HPV Initiative that was initiated in 1998 is the voluntary HPV Challenge Program. This voluntary program challenges industry to make publicly available a complete set of baseline health and environmental effects data on U.S. HPV chemicals.

EPA has indicated that any data gaps not addressed as part of the voluntary HPV Challenge Program, may be addressed by international efforts coordinated by the Organization for Economic Cooperation and Development (OECD) to secure basic toxicity information on HPV chemicals in use worldwide, including some of those on

¹The dose-response chapter mentioned in Question 1, has already undergone external peer review as well as public review and comment. An external review draft has been prepared, incorporating peer review and public comments, as appropriate, for re-review by the SAB. This draft dose-response chapter will be provided as background information for the peer reviewers and the public in preparation for the upcoming July peer review meeting.

the U.S. HPV chemicals list, or by rulemakings issued under the Toxic Substances Control Act (TSCA).

Under the voluntary HPV Challenge Program, based on the industry commitments received by December 1, 1999, 2,080 chemicals—of the 2,800 U.S. HPV chemicals originally identified—have been sponsored by 437 Companies and 155 Consortia either directly through the EPA voluntary HPV Challenge Program or indirectly through the International Council of Chemical Associations (ICCA)'s HPV Initiative.

A proposed TSCA test rule covering certain HPV chemicals was submitted to the Office of Management and Budget (OMB) for review under Executive Order 12866 on September 7, 1999. Final revisions are expected to be completed shortly.

Question 3: With the economic prosperity of the country many states are operating with a budget surplus. Please provide any information or knowledge in the possession of the EPA headquarters or regional offices that indicate whether the state environmental budgets and personnel resources (i.e., FTEs) for the RCRA program, toxic waste cleanup program (i.e., state Superfund programs), and state voluntary cleanup programs have increased, remain relatively constant, or have decreased over the past four years (FY 1997-FY 2000). Where possible, please provide specific funding levels and personnel levels for the above programs on a state-by-state basis.

EPA does not have specific information or data on state environmental budgets and personnel. EPA does, however, give money to states through our core grants programs. EPA's funding of the state programs has remained relatively constant over the past few years.

Question 4: Questions were raised at the hearing about the EPA Inspector General's actions at the Tar Creek, Oklahoma site and alleged fraudulent activities by the cleanup contractor at the site. Please provide the following information relating to the history of the site, the status of cleanup actions, and the status of any investigation at the site.

Question 4a. Identify the major potentially responsible parties at the site and indicate their financial contribution to the cost of response actions at the site. Has a judicial consent decree been entered or an administrative order issued for response actions at the site?

The major potentially responsible parties (PRPs) at the site are: Asarco Incorporated, Blue Tee Corporation, Childress Royalty Company, Gold Fields Mining Corporation, NL Industries Inc., and the St. Joe Minerals Corporation. A judicial consent decree regarding the first operable unit (ground water, surface water) was entered June 11, 1991. Under the consent decree, the PRPs listed above committed to providing \$1,273,000 towards the cost of response.

Another PRP, Eagle Pitcher Corp., settled with EPA regarding its Tar Creek costs in a Chapter 11 bankruptcy reorganization.

The United States Department of the Interior (DOI) is also a PRP, based on the control that it exerted over the mineral leases, acting on behalf of the Indian owners. DOI required that the waste rock ("chat") remain on the leases. That is, the lessees were not allowed to remove it. It was treated as a valuable commodity at the site. DOI has not settled with EPA.

For the second operable unit (residential soil lead cleanup), no PRPs other than DOI have been identified.

Question 4b. Have any of the major responsible parties at the site brought litigation against the EPA at the site? If so, please identify the major issues involved and the outcome of the litigation.

There has been no litigation initiated against EPA by the PRPs at this site.

Question 4c: Identify the records of decision (RODS) that have been issued at the site and the nature and scope of work covered by each ROD. Have all final RODs been issued at the Tar Creek site? If not, please indicate when the final ROD will be issued.

The first ROD to address operable unit (OU) #1 was issued on June 6, 1984, to address surface water degradation of Tar Creek by the discharge of acid mine water and the threat of contamination of the Roubidoux Aquifer which is the regional water supply, by the downward migration of acid mine water from the overlying Boone Aquifer through abandoned wells connecting the two aquifers. The OUI remedy included the following: diversion and diking of several major inflow areas; plugging 83 identified abandoned wells in the Roubidoux Aquifer and any other abandoned wells found connecting the Roubidoux; and a monitoring program for the Roubidoux Aquifer and Tar Creek. The construction of the ROD remedy was completed in December 1986.

A second ROD covering operable unit #2 was issued on August 27, 1997, to address soil contamination in the residential areas of the Site. The OU2 remedy included the following: excavation of lead-contaminated soil above 500 mg/kg and re-

placement of clean soil for residential properties; disposal of excavated soils on-site in existing mining waste areas; use of institutional controls such as health education, indoor dust reduction, and blood lead monitoring; covering or replacement of chat surfacing on traffic areas with road base material; constructing physical barriers to restrict access to mining waste areas; and improving the ground cover for residential yards outside the mining area. The construction of the ROD remedy for OU2 is expected to be completed by the end of 2001 if federal and state funding is available.

All final RODs for the site have not been issued. The schedule for future RODs is estimated as follows:

Tribal Pilot (includes industrial properties in Cardin)	ROD 12/31/01	(Tribal-lead)
Beaver Creek (includes watershed)	ROD 12/31/02	(Tribal-lead)
Non-residential Areas (includes chat piles, tailing ponds, and agricultural land)	ROD 12/31/03	(State-lead)

Question 4d. Identify the actual physical cleanup work that has been Finished at the site and the cleanup activities that are underway.

In the 1980s, diversion and diking structures were constructed to prevent surface water from flowing into the underground mines at three locations. A total of 83 abandoned Roubidoux wells were plugged. The well plugging work is ongoing as a State-lead activity (using federal Superfund dollars). The State estimates that 15 additional wells may be plugged in the future.

In the Fall 1994, new studies began to evaluate mining waste as a source of contamination. Also in 1994, EPA acquired a summary of results of Indian Health Service testing, which indicated that approximately 35% of the Indian children tested in the area had blood lead levels greater than 10 ug/dL, the level that is considered elevated. In addition, the Oklahoma Department of Health screened children in the mining area and found in the Picher-Cardin area that 21% of the children had elevated blood lead levels.

In 1995, EPA responded to these results and initiated a removal action to address 17 high access areas (e.g., schools, parks, day care, and similar areas where children congregate) with surface soil contamination greater than or equal to 500 ppm lead and/or 100 ppm cadmium. A second removal action was initiated in 1996 to address lead contamination in soil greater than or equal to 1500 ppm at approximately 300 residential homes. The removal action was completed in the Summer 1997.

Residential soil cleanup began in 1997 at approximately 2,100 residential properties. The lead cleanup level is 500 ppm and the excavation depth is 18 inches. To date, approximately 1,400 properties have been remediated (which includes the 300 homes addressed by a removal action). The remaining approximately 700 properties are expected to be completed by the end of 2001, if federal and State funding is available.

Between the years 1996 and 1997, independent studies indicated that the percentage of children with high blood lead levels were reduced by 53%. To date, the Quapaw Tribe has been very supportive of EPA's cleanup efforts.

Question 4e: Describe what cleanup work remains to be done and the expected construction completion date of the Tar Creek site.

The remediation of the non-residential areas, including the Beaver Creek area and the Tribal Pilot area, remain to be completed. The non-residential areas include the extensive chat piles, tailings ponds, and other agricultural land. The site lead for this action will be the State of Oklahoma. The Beaver Creek watershed and Tribal Pilot industrial areas in Cardin are currently in the Remedial Investigation/Feasibility Study (RI/FS) phase, and the lead for this action is the Quapaw Tribe.

Construction completion (all physical cleanup completed) at all non-residential areas is estimated to be completed by September 2006, if federal and State funding are available.

Question 4f: Describe the status of any cost recovery action against the potentially responsible parties at the Tar Creek Site.

With respect to the viable mining companies that operated at Tar Creek, there is no evidence linking the companies to operable unit 2 (OU2). The viable mining companies, or their predecessors, have settled their liability with respect to operable unit 1 (OU1), and they would argue that they have additionally settled their liability with respect to OU2. EPA has told the viable mining companies that it does not intend to pursue them with respect to OU2, based on information that we now have in our possession. That information includes detailed maps of the waste "chat" piles owned by the viable mining companies. None of these piles can be linked to OU2. However, some of the piles may be the subject of later operable units. If that is the case, the viable mining companies may be pursued at that time. DOI is aware that we consider it a PRP for OU2 (and OU1); however, EPA has not yet taken action against DOI.

Question 4g: State when the U. S. Army Corps of Engineers began managing response actions at the Tar Creek site and identify the private contractors who have been retained by either the EPA or the Corps of Engineers to conduct the actual response work.

The USACE began managing response actions (physical construction) in May 1996. For actual physical construction work, the USACE contracted with Morrison Knudsen (NM) Corporation and EPA contracted with Reidel Environmental Services/Smith Environmental -Technologies.

Question 4h: Have any instances of financial fraud against the U.S. Government been documented by either (1) the EPA Inspector General, (2) the Defense Criminal Investigation Service, or (3) the Federal Bureau of Investigation? If so, please provide a summary of each specific instance of financial fraud against the U.S. Government or misappropriation of federal funds and the dollar amounts involved.

The Inspector General is investigating allegations of criminal wrongdoing related to the Tar Creek, Oklahoma site. No evidentiary conclusions have been made and the investigation is ongoing.

Question 4i: If there has been financial fraud or misappropriation of federal dollars, please indicate the status of any efforts to recoup the money from either the Corps of Engineers or private contractors.

The Inspector General is investigating allegations of criminal wrongdoing related to the Tar Creek, Oklahoma site. No evidentiary conclusions have been made and the investigation is ongoing.

Question 4j: Has there been a case of "proven bribery" as alleged at the Subcommittee's March 30 hearing?

The Inspector General is investigating allegations of criminal wrongdoing related to the Tar Creek, Oklahoma site. No evidentiary conclusions have been made and the investigation is ongoing.

Question 5: When Congress passed S.880 amending Section 112(r) of the Clean Air Act last summer (P.L. 106-40 August 5, 1999) one of the important provisions as part of the overall compromise was the required study by the Attorney General of a sampling of covered stationary sources of vulnerability to criminal and terrorist activity, current industry practices regarding site security and security of transportation of regulated substances (see Section 3). This is a mandatory duty and legal requirement placed on the Attorney General. An interim report on this study is due in August 2000, according to the law. Please indicate the amount of funding in the Administration's FY2001 budget to perform this interim study, when the interim study was initiated and the date it is expected to be completed.

PL 106-40 assigned the responsibility for conducting this study to the Attorney General. EPA's budget does not include funding for the Attorney General's study.

Question 6: Is EPA legally prohibited from spending its appropriated funds to help in the cleanup of a Federal Superfund site?

CERCLA 111(e)(3) is clear in stating: "No money in the Fund shall be available for remedial action, other than actions specified in subsection (c) of this section, with respect to federally owned facilities. However, E.O. 12580, Section 9(i) permits Superfund monies to be used "to pay for removal actions for releases or threatened releases from" Federal facilities. However, these funds must be reimbursed to the Fund by the Federal agency which owns the facility.