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THE FISCAL YEAR 2013 EPA BUDGET

JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND POWER

AND THE

SUBCOMMITTEE ON ENVIRONMENT AND THE ECONOMY

OF THE

COMMITTEE ON ENERGY AND COMMERCE
HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

FEBRUARY 28, 2012

Serial No. 112–119

Printed for the use of the Committee on Energy and Commerce
energycommerce.house.gov

U.S. GOVERNMENT PRINTING OFFICE
79–437 PDF WASHINGTON : 2013

For sale by the Superintendent of Documents, U.S. Government Printing Office
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THE FISCAL YEAR 2013 EPA BUDGET

TUESDAY, FEBRUARY 28, 2012

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY AND POWER,
JOINT WITH THE
SUBCOMMITTEE ON ENVIRONMENT AND THE ECONOMY,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The subcommittees met, pursuant to call, at 10:05 a.m., in room 2123 of the Rayburn House Office Building, Hon. Ed Whitfield (chairman of the Subcommittee on Energy and Power) presiding.

Members present: Representatives Whitfield, Shimkus, Pitts, Walden, Terry, Sullivan, Murphy, Burgess, Bilbray, Bass, Scalise, Latta, McMorris Rodgers, Harper, Cassidy, Olson, McKinley, Gardner, Pompeo, Griffith, Barton, Upton (ex officio), Rush, Green, Dingell, Markey, Pallone, Engel, DeGette, Capps, Inslee, Butterfield, Barrow, Matsui, Castor, and Waxman (ex officio).

Staff present: Charlotte Baker, Press Secretary; Caroline Basile, Staff Assistant; Ray Baum, Senior Policy Advisor/Director of Coalitions; Anita Bradley, Senior Policy Advisor to Chairman Emeritus; Maryam Brown, Chief Counsel, Energy and Power; Allison Busbee, Legislative Clerk; Jerry Couri, Senior Environmental Policy Advisor; Andy Duberstein, Deputy Press Secretary; Cory Hicks, Policy Coordinator, Energy and Power; Heidi King, Chief Economist; Ben Lieberman, Counsel, Energy and Power; Dave McCarthy, Chief Counsel, Environment and the Economy; Mary Neumayr, Senior Energy Counsel; Andrew Powaleny, Deputy Press Secretary; Tina Richards, Counsel, Environment and the Economy; Krista Rosenthall, Counsel to Chairman Emeritus; Chris Sarley, Policy Coordinator, Environment and the Economy; Peter Spencer, Professional Staff Member, Oversight; Alex Yergin, Legislative Clerk; Alison Cassady, Democratic Senior Professional Staff Member; Jacqueline Cohen, Democratic Counsel; Greg Dotson, Democratic Energy and Environment Staff Director; Caitlin Haberman, Democratic Policy Analyst; and Alexandra Teitz, Democrat Senior Counsel, Energy and Environment.

Mr. WHITFIELD. I would like to call today's hearing to order. This is going to be a hearing on the fiscal year 2013 budget request for EPA. We only have one witness today, and that is the Honorable Lisa Jackson, who is Administrator of EPA, and Ms. Bennett is there to provide additional information if she needs it, which she probably won't, but we are delighted to have you here as well. I am going to recognize myself for 3 minutes for the purpose of making an opening statement.

OPENING STATEMENT OF HON. ED WHITFIELD, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF KENTUCKY

This is a joint hearing of the Energy and Power and Environment and the Economy Subcommittees of the Energy and Commerce Committee, and I think it is important that we have this hearing because in Washington, it seems like we do become anesthetized to dollar amounts, and when we go home and we attend civic clubs and have town hall meetings, people inevitably get upset about the many dollars that are being spent in Washington, DC. President Obama's fiscal year 2013 budget request is for $3.7 trillion, and in that there are $350 billion in new program requests or new initiatives.

We are going to be focused only on the budget of EPA and the EPA fiscal year 2013 budget request is $8.3 billion, and that is less than last year and certain that is moving in the right direction. I might add that I think all government agencies at this particular time when we have a $16 trillion Federal debt do have to be cognizant and aware of how we are spending these dollars, and as a result of that, I might just pat Congress on the back because last year, fiscal year 2012, Congress reduced its own budget by 6.4 percent and we anticipate that our budget this year is going to be reduced by an equal amount or very close to it.

So on that front, I know EPA's budget request for 2013 is 1.2 percent less than last year, so I am going to urge them to try to be more like Congress on being prudent with these dollars.

But we look forward to this hearing. It is very important, and we look forward to exploring in more detail the five specific goals that EPA has set out for fiscal year 2013.

[The prepared statement of Mr. Whitfield follows:]

Opening Statement of the Honorable Ed Whitfield
Subcommittee on Energy and Power and Subcommittee on Environment and the Economy
Joint Hearing on "The FY 2013 EPA Budget"
February 28, 2012

I am greatly concerned about the President's FY 2013 $3.7 trillion dollar budget request and the damage that this irresponsible level of spending will do to our economy.

But today we are focusing specifically on one part of this budget request, the 8.3 billion dollars requested for the Environmental Protection Agency.

While this is only a part of the overall budget, I am especially worried about what this money would be used for. I believe EPA's budget request reflects an agency that has moved far from its core missions and statutory authorities purpose and that is now delving into areas for which it has no business.

For example, I do not believe that even one penny of the people's money should be spent in the agency's war on coal. Now, let me be clear, I am all for reasonable EPA regulations to control emissions from coal-fired power plants as spelled out in the Clean Air Act. But what we have seen in the last few years goes well beyond what EPA is supposed to be doing, and constitutes an effort to force this nation away from coal by imposing an avalanche of regulations that are technologically and economically impossible to meet. These regulations will most certainly drive up electricity rates and cause massive unemployment.

Last summer, EPA issued the costly Cross-State Air Pollution Rule. Most recently, the agency rolled out its Utility MACT regulations, and will soon release its New Source Performance Standards for greenhouse gases from coal-fired generation. This comes on top of other regulations that have not only brought construction of new coal-fired power plants to a near standstill, but have led to a growing list of announced retirements of existing plants. I recently led a letter with 220 other Members of Congress asking the EPA to halt their greenhouse gas standards so that we can provide certainty in the electricity markets and stop these retirements.

Let me state the obvious – the Environmental Protection Agency does not have authority to set energy policy, and should not be in the business of deciding which energy sources this nation can and cannot use. This effort is part of an expansive global warming agenda that Congress never authorized and never intended. I might add that Congress has in fact rejected the regulation of carbon on three separate occasions.

Another example of EPA mission creep and abuse of discretion can be seen with the rise in spending for grants going to other countries. Whether the millions spent on programs like "Breathe Easy Jakarta" actually does any good is highly debatable, but what is not debatable is that the agency shouldn't be spending taxpayer dollars on such foreign efforts.

Yet, while EPA has greatly increased its foreign grants in recent years, the agency apparently isn't using enough resources to have answers to many of my subcommittee's questions, such as the total estimated cost of the Utility MACT rule. This raises questions about prioritization that also need to be explored.

In any event, I look forward to a discussion of the EPA's budget request with an eye toward returning the agency to what I believe is its legitimate role.

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Mr. WHITFIELD. So with that, I would like to recognize the ranking member of the Energy and Power Subcommittee, Mr. Rush, for 3 minutes for an opening statement.

OPENING STATEMENT OF HON. BOBBY L. RUSH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. RUSH. Thank you, Madam Administrator, for being here today, and I want to thank you for all your hard work, your exceeding dedication on behalf of the American people to protect public health. I do not envy your task to try to do your job and try to protect the Nation's air and water supply when I understand that the President's fiscal year 2013 EPA budget calls for $105 million less than the $8.4 billion that Congress appropriated to the agency last year.

And on top of these budgetary constraints, you have to deal with the constant partisan demonizing that is going on in this Congress about the work that your agency does so valiantly in protecting our Nation's most vulnerable populations.

Madam Administrator, I want to just commend the EPA on your recently issued Mercury and Air Toxic Standards, the first national standards to protect American families from power plant emissions of mercury and other toxic air pollutants like arsenic and acid gas. These rules will protect millions of vulnerable children and millions of families from harmful and costly air pollution and provide the American people with health benefits that far outweigh the cost of compliance. It must be noted that the EPA worked consistently with stakeholders including industry and others to minimize costs and maximize flexibility before finalizing these standards, and I would also note, Madam Administrator, some companies are already scaling back their estimated compliance costs as a result of the MACT standards.

While the MACT rule and other environmental regulations have been blamed for potentially causing wide-scale plant retirements, upon careful notice, we see the limited facilities that are indeed being retired are among the oldest and the dirtiest and the most inefficient facilities that are no longer economically feasible in light of cheaper and abundant supplies of natural gas and low energy demand.

So Madam Administrator, I strongly support the work you are doing. I look forward to your testimony today and I congratulate you for being at the helm of one of the better agencies in the government and for the work that your agency does. Thank you.

I yield back my time.

Mr. WHITFIELD. You will notice that our clock is not working up on the wall, and they are in the process of fixing that, but in the meantime, we do have this one that is working, and at this time I would recognize the chairman of the Environment and Economy Subcommittee, Mr. Shimkus, for 3 minutes for an opening statement.

OPENING STATEMENT OF HON. JOHN SHIMKUS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. SHIMKUS. Thank you, Mr. Chairman. I would just note for my colleagues that the green light does go on and the yellow does

go on when you are getting close to time, so the numbers aren't, but the lights are, working, and I would just like to welcome the Administrator, and to my friend, Mr. Rush, good thing we have drilling and fracking to recover all that natural gas that is going to help us move to a cleaner future. Without that, we couldn't access these natural gas reserves, and I hope that the Administration with its newfound love for natural gas will not inhibit drilling, fracking and also regulate the flaring issues to try to stop natural gas.

Your request is for $8.3 billion to fund the EPA in 2013. I have been quoted as saying we wanted to go as a committee line by line, and unfortunately, the documents that we have been provided so far don't give us a lot of detail about where the money is planned to go and how it is to be spent, so hopefully this hearing will help us flesh some of that out and hopefully the follow-up documents that we request will be provided so we can have an analysis of where the money you are requesting is actually designed and destined to go.

Based upon what I see, only about 1 percent less spending is proposed from last year. With such a minimal decrease from an EPA whose funding has skyrocketed under this administration, I am concerned we are not committing our maximum effort towards scaling back wasteful spending. Whether it is Clean Air, Drinking Water, Solid Waste Disposal Act or Superfund, all these programs deserve a complete review, and I hope this Administration is committed to working with us to promote a transparent look into where by statute the dollars and cents flow at the EPA. This help will go a long way toward assisting our efforts to give confidence to the American public that we are protecting human health and the environment, trimming unnecessary spending where appropriate, and eliminating duplicative programs.

Equally as important as the money we are spending is the leftover money we are not spending. In this case, I am referring to billions of dollars EPA has that it will carry over from prior year appropriations, about $3.3 billion, some of it not obligated, and the question is, Why can we only find $100 million in savings when we have billions of dollars that are not spent in this current year? That is not talking about the billions not spent in the obligated funds. Rather than sitting on these funds, the EPA should bring down spending requests in its budget or work to spend down these funds in areas where it makes sense.

Lastly, activities by this agency, both regulatory and non-regulatory, incur public and private costs. This committee needs to know what all EPA activity is costing taxpayers directly from funding we authorize and appropriate in Congress. Even more important, especially during these economic times, is what those actions could mean in terms of jobs and the economy.

Our economy continues to struggle and one of the fastest ways for us to get back on course is by providing commonsense regulatory certainty by eliminating unnecessary and burdensome regulations. This will spark American job creators and help develop the conditions essential for economic growth and job creation in the United States. These companies that want to stay here or come

back need to be assured that we understand how to balance oversight and public health regulation with innovation and growth.

Again, I do appreciate Administrator Jackson being here to help our understanding as we move forward with this budget. I look forward to having an open dialogue, and we will see how today goes. Thank you for coming.

[The prepared statement of Mr. Shimkus follows:]

Opening Statement of the Honorable John Shimkus
Subcommittee on Energy and Power and Subcommittee on Environment and the Economy
Joint Hearing on "The FY 2013 EPA Budget"
February 28, 2012

I want to join my colleagues in welcoming Administrator Jackson back to the committee. The Administration has requested $8.3 billion to fund the EPA in FY 2013. Yet for such a significant amount of money there has been little detail on where these funds will be spent – both in documents this committee has been provided or in the over fourteen hundred pages of budget justification.

Members of this committee need to know exactly what this president's EPA plans to spend on important programs under our jurisdiction. Based upon what I see, only about one percent less spending is proposed from last year. With such a minimal decrease from an agency whose funding has skyrocketed under this administration, I have concerns we are not committing our maximum effort toward scaling back wasteful spending.

Whether it is Clean Air, Drinking Water, Solid Waste Disposal Act or Superfund, all these programs deserve a complete review. I hope this administration is committed to working with us to promote a transparent look into where, by statute, the dollars and cents flow at EPA. This help will go a long way toward assisting our efforts to give confidence to the American public that we are protecting human health and the environment, trimming unnecessary spending where appropriate, and eliminating duplicative programs.

Equally as important as the money we are spending is the left over money we are not spending. In this case, I am referring to billions of dollars EPA has that it will carry over from prior year appropriations. One aspect of EPA funding – which represents many millions of dollars in spending – is not even in the detailed EPA budget justification. Rather than sitting on these funds, EPA should bring down spending requests in its budget or work to spend down these funds in areas where it makes sense.

Lastly, activities by this agency – both regulatory and non-regulatory – incur public and private costs. This committee needs to know what all EPA activity is costing taxpayers directly from funding we authorize and appropriate in Congress. Even more important, especially during these economic times, is what those actions could mean in terms of jobs and the economy.

Our economy continues to struggle and one of the fastest ways for us to get back on course is by providing commonsense regulatory certainty by eliminating unnecessary and burdensome regulations. This will spark American job creators and help develop the conditions essential for economic growth and job creation in the U.S. Companies that want to stay here or come back need to be assured that we understand how to balance oversight and public health regulation with innovation and growth.

Again, I appreciate Administrator Jackson being here to help our understanding as we move forward with the FY 2013 budget. I look forward to having an open dialogue with you as we work through the process beginning with questions at today's hearing.

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Mr. WHITFIELD. At this time I would like to recognize the gentleman from Texas, Mr. Green, who is ranking member of the Environment and Economy Subcommittee, for 3 minutes for an opening statement.

OPENING STATEMENT OF HON. GENE GREEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. GREEN. Thank you, Mr. Chairman. By not having a light, I thought maybe we had changed the rules that would allow us to go under Senate rules so we could make these hearings last all day. I am sure our Administrator would love that.

I want to thank you for holding this important hearing on the EPA's 2013 budget request. It takes care of our jurisdiction with our committee that all of us are concerned about and the oversight of EPA.

This year, the Administration and Congress will once again be forced to make some tough choices when it comes to our budget. The task of choosing which programs to fund is an unenviable position and I understand it is not an easy task. I reviewed the EPA's request, and I must say, I am extremely concerned and disheartened by the decision to fund many of their programs by drastically cutting funding for the Superfund program and the Drinking Water State Revolving Fund.

In our 29th district in Houston, we have two Superfund sites that are in close proximity to our district, the San Jacinto Waste Pits and U.S. Oil Recovery. San Jacinto Waste Pits was added to the National Priorities List in 2008. The EPA has been conducting studies and begun the very early stages of cleaning up the site. The U.S. Oil Recovery site was listed as a proposed addition to the National Priority List in 2011. From what I witnessed at the San Jacinto Waste Pits, I believe the EPA is making great strides in the Superfund program, yet at $1.176 billion that Superfund requests for 2013 is the lowest request for the program in the last 10 years. According to EPA's Congressional justification, this funding level is so low, it would not allow for any new construction projects in fiscal year 2013 and would constrain new construction projects in fiscal year 2012. My fear, which I think is very clearly shown in the Administration's budget for the Superfund sites, Superfund sites across the country will be abandoned and left to contaminate our environment or left for our State agencies to remediate.

In 2011, only 11 new sites were proposed for inclusion on the National Priorities List but 15 were added and only seven were deleted. These are small numbers, and even if they are an improvement over the past year, the EPA can still do better and should be placing a priority on very long-distance Superfund sites that continue to need to be cleaned up even if the EPA does not request the funds, and I hope other members with Superfund sites in their districts will share my concern with the massive cut in Superfund.

I yield back my time.

Mr. WHITFIELD. The gentleman yields back. Thank you.

At this time I recognize the gentleman from Texas, Mr. Barton, for 3 minutes for an opening statement.

Mr. BARTON. Mr. Chairman, could I defer for a few minutes? I want to give it, I just got through with the doctor's office and I want to——

Mr. WHITFIELD. OK. But you do want to talk?

Mr. BARTON. I do, but if you could let somebody else go.

Mr. WHITFIELD. Mr. Waxman has been very courteous and said he is willing to go now, so I would like to recognize Mr. Waxman from California for a 3-minute opening statement.

OPENING STATEMENT OF HON. HENRY A. WAXMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. WAXMAN. Thank you, Mr. Chairman.

Administrator Jackson, thank you for being here today and thank you for your outstanding leadership that you have provided to the Environmental Protection Agency. Under your leadership, EPA is making our air safer to breathe and our water safer to drink. And you are doing so in a way that will strengthen our economy and create jobs.

Congress should be your partner in these efforts, but since Republicans took control last January, the House of Representatives has tried to undermine your efforts every step of the way.

The EPA budget represents a small portion of the overall Federal spending. Under the President's proposal for fiscal year 2013, EPA funding would be less than one-quarter of 1 percent of the Federal budget. And EPA would share over 40 percent of these funds with the States and tribes to help implement Federal environmental laws and achieve national goals.

But today we will hear that your budget is too big. We will be told that we can't afford investing in clean air and water. These attacks are really part of a broader agenda.

This has been the most anti-environmental House of Representatives in history. House Republicans have voted over 200 times to undermine basic environmental protections that have existed for decades. They have voted to block actions to prevent air pollution; to strip the EPA of authority to enforce water pollution standards; to halt efforts to address climate change. Cutting EPA's funding is just another way to limit the agency's effectiveness.

This is an extreme agenda. American families want clean air and clean water. They don't want their health put at risk by exposure to toxic chemicals. They understand that stalling action on climate change means more intense and frequent heat waves, more droughts, more flooding, and more loss of coastline.

According to the IEA, delaying action until the end of the decade will quadruple the costs to the global economy. They understand inadequately funding cleanups of Superfund sites will increase their complexity and costs.

One-quarter of 1 percent of our budget is not too much to spend on clean air and clean water and a healthy environment. In fact, I believe it may not be enough.

Thank you, Mr. Chairman.

Mr. WHITFIELD. Thank you.

Mr. Barton, are you ready now?

Mr. BARTON. I am ready.

Mr. WHITFIELD. The gentleman from Texas is recognized for 3 minutes for an opening statement.

OPENING STATEMENT OF HON. JOE BARTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. BARTON. Thank you. I want to give the Administrator an A for attendance at our hearings. She has always been gracious about appearing. I cannot give you an A for your performance because I think you have tended to evade some of more direct questions but we do appreciate your attitude and willingness to appear before us.

Today, Chairman Whitfield, Chairman Shimkus and their two subcommittees are going to conduct a hearing on the EPA's 2013 EPA budget. EPA has over 17,000 employees. They have a budget of over $8 billion. You would think that with that much manpower and that many dollars, they would be able to answer some of the questions that this Congress and this committee and this subcommittee has been asking them for the past year.

You have to comply with the President's Executive Order 13563, which requires that regulations promote economic growth, innovation, competitiveness and job creation. That order further requires Federal agencies to employ the least-burdensome tool for achieving regulatory ends, taking into account benefits and costs, both quantitative and qualitative. Repeatedly, the EPA under your direction has said that they don't have to comply with this Executive Order or have done so in a most perfunctory way.

This committee has written letters requesting specific health benefits and monetary losses and gains from each and every regulation that you have proposed. To the extent that your agency has attempted to answer these letters, they have been evasive and have not responded to the specific request.

In terms of the science and research funding and support activities such as quality assurance supervisory budget and things of this sort, your agency has been funding research with grants to people who serve on the review committees. Is this a conflict of interest? Almost every single member of the Clean Air Science Advisory Committee has been directly or indirectly funded for research. This would be similar to myself counting my votes for my reelection. It wouldn't be a surprise if I won if I am counting the votes. Members that serve on these advisory panels are often asked to review other research that they themselves were a party to or were on the original research team. Is this the only way or the best way to do so-called peer review?

There is a manual called the Reference Manual on Scientific Evidence. This is published by the Federal Judicial Center as a guide to research for the reasons to propose new regulations. These guidelines are followed by the world's leading toxicologists and epidemiologists on how to study the health effects for pollution. Your agency has refused to follow some of the basic standards in this manual.

For example, it requires that you would justify your studies to be unbiased and not include so-called confounding factors. A confounding factor is when another causal factor confuses the relationship between the agent of interest of and the outcome of interest such as the utilization of particulate matter PM2.5 instead of mer-

cury to justify the Utility Mercury Air Toxic Standard, or MATS standard.

The EPA has not been able to find an ambient air causation for toxicity so you use manipulated studies on precautionary principles that this Congress and no other Congress has ever agreed to. The EPA has taken it upon its own authority to set energy and manufacturing policy by way of manipulated studies, again, overruling the Congress. In my opinion, this is unacceptable and should be stopped.

I could go on and on but my time is expired. Suffice it to say that you can look forward to an exciting hearing today and a dialog when we get to the Q&A period, but thank you for being here.

Thank you, Mr. Chairman.

Mr. WHITFIELD. At this time I recognize the gentleman from Michigan, Mr. Dingell, for a 3-minute opening statement.

OPENING STATEMENT OF HON. JOHN DINGELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. DINGELL. Mr. Chairman, I thank you for your courtesy and for recognizing me, and I commend you for holding this hearing.

First, Administrator Jackson, I want to thank you for visiting the North American International Auto Show in Detroit last month with me. I hope you enjoyed your tour and the exciting new fuel-efficient and advanced-technology vehicles coming from Detroit. I think there was a high level of energy at the show, and I thank you for taking the time to attend. It was most helpful to our people, and I hope the experience was valuable to you and to the EPA in understanding all of the problems we in Michigan have.

The EPA was also kind enough to allow me to testify at a field hearing in Detroit regarding the 2017 fuel efficiency standards, which I support, for which I commend you. I appreciated the opportunity, and I am encouraged that EPA and NHTSA held these field hearings across the country asking for input from the public. Not everyone can testify in Washington because the travel costs and other difficulties that are imposed on them, and so I believe it is important to get feedback from as many Americans as possible on issues affecting their day-to-day lives back where they live.

I hope that my colleagues on this committee will review the President's budget proposal for EPA as a working document that includes programs that may need more funding and a few that perhaps could deal with less. Just because members disagree with some of the actions taken by the EPA recently doesn't mean we need to defund nor to dismantle EPA.

As I have said a number of times, the Clean Air Act alone has reduced key pollutants by 60 percent since 1970 while at the same time we saw the economy grow by over 200 percent. I believe we can maintain a healthful environment while creating jobs and growing businesses without going back to the days of mercury-tainted lakes or smog-filled air.

I hope that we will have today in this committee a civil discussion where we can find ways to continue growing the economy while taking steps to preserve the environment without resorting

to demagoguery and saber rattling and other similar unfortunate behavior.

I would like you also to know that I do have a few small remaining concerns in that I have requested from EPA and others an explanation of why it is that we have that nice little problem where FERC may order people to produce electricity for which EPA will then fine them for violating the law. I hope that this is a matter that you will give some attention to when you get back down to EPA and will look at the questions that I was asking earlier in this committee so that you can give us some answers as to why we have this curious, unfortunate and I think obviously unfair event going forward.

In any event, I want to tell you how much I appreciated the way that you have handled the fuel efficiency standards and the uniform standards for the United States and the agreement that we have with California. I believe it has been very helpful to all of us, and I thank you for your courtesy in being here this morning.

Thank you, Mr. Chairman.

Mr. WHITFIELD. Thank you, Mr. Dingell.

Our clock is still not working, but now our red light is working also, so we have green light, yellow light and red light, and Mr. Upton is not here this morning so I am going to recognize Mr. Murphy of Pennsylvania for a 3-minute opening statement.

OPENING STATEMENT OF HON. TIM MURPHY, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF PENNSYLVANIA

Mr. MURPHY. Thank you, Mr. Chairman. I appreciate that, and welcome here, Administrator Jackson.

One of the things that I wanted to make a statement had to do with how Pennsylvania is doing with natural gas. It is an abundant clean fuel, and we are excited about this opportunity. Of course, we want to make sure we do it right, that it is done in a way that respects the environment, that it is done in a way that makes sure we are protecting the air and the land and the water.

Along those lines, slightly more than a year ago last March, I had asked the EPA if they thought that Pennsylvania laws were adequate in their strength and adequately enforced. Maybe things slipped by. I still think it is important that the EPA does give information on what the States are doing and to give recommendations. I must admit, I am not one that favors that the EPA tells every State what to do, but given that many States are involved with this, I think it is valuable that the EPA can play a role in reviewing what States are doing with fracking and I know that investigations are taking place but also to make recommendations on the laws and the regulations of the various States.

All of us would like us to have some energy independence and certainly have clean air and certainly we recognize that natural gas is an abundant, clean fuel resource but we also want to make we do it right, and I am still hoping that that is something that can come out of the Environmental Protection Agency as you work with us.

One other thing that is worth noting, that many of the farms that I have visited in my district over the years, I noticed some

years ago there were certainly ones that in many cases were rundown, with old barns, old tractors, fence lines that were broken and farms that were struggling along. Certainly now that they have found natural gas on their property from the Marcellus shale and Utica shale, I have noticed consistently that these are farmers who have been able to buy new tractors, put a fresh coat of paint on their barn, build greenhouses so they can grow plants all year long, hydroponics and other modern farming techniques and really work up to clean their farms on multiple levels. So it has had a benefit for the economy with $2 billion of new investment taking place in Pennsylvania.

But above all, I would like to emphasize again, it is important that the States and EPA work in partnership on this, and I am still hoping that over time we will be able to hear from the EPA on their recommendations of State standards with a very specific review of the laws, the regulations States have on the books and recommendations that are being adequately enforced.

Mr. MURPHY. With that, I would like to yield the remainder of my time to the gentleman from California, Mr. Bilbray.

OPENING STATEMENT OF HON. BRIAN P. BILBRAY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. BILBRAY. Thank you very much.

Administrator, one of the concerns I have had as somebody who has been involved in the environmental review and regulatory oversight is that too often we take the mentality of a cop of looking to give tickets rather than as a fire inspector who helps, works and is proactive. I would just like to point out items that really I am concerned about is how much the EPA can be proactive working with other agencies and actually helping people get to an environmentally better option rather than always saying what they can't do and what they must do rather than creating opportunities.

A good example I think that when we get down to it is that we may be talking about nuclear reactors causing harm to invertebrates and aquatic life, but how often do we talk about asking the regulatory agencies to take a look at gas-cooled reactors, which totally eliminate that problem, but we take the attitude, well, that is not our department, we are just basically on the other side. These kinds of proactive approaches, things like looking at why we don't open up more lands for rare earth extraction is going to be important if we are going to talk about clean, efficient electrical energy too.

I yield back, Mr. Chairman.

Mr. WHITFIELD. Thank you, Mr. Bilbray.

I think that concludes today's opening statements, so I will recognize myself for 5 minutes for the purpose of asking questions. I am so anxious to ask questions, I guess I should let you testify first, Ms. Jackson. So I would like to recognize you for 5 minutes for an opening statement.

STATEMENT OF LISA JACKSON, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY

Ms. JACKSON. Thank you, Mr. Chairman, and thank you for inviting me to testify on the President's fiscal year 2013 budget for the Environmental Protection Agency. I am joined by the agency's Chief Financial Officer, Barbara Bennett.

EPA's budget request of $8.344 billion focuses on fulfilling EPA's core mission of protecting public health and the environment while making the sacrifices and tough decisions that Americans across the country are making every day.

EPA's budget request fully reflects the President's commitment to reducing government spending and finding cost savings in a responsible manner while supporting clean air, clean water and the innovative safeguards that are essential to an America that's built to last. In some cases we have had to take a step back from programs. This budget reflects a savings of $50 million through the elimination of several EPA programs and activities that have either met their goals, or can be achieved at the State or local level or by other Federal agencies.

Let me spend a moment discussing major elements of EPA's budget request. This request recognizes the importance of our partners at the State, local and tribal level. As you know, they are at the front lines of implementing our environmental laws like the Clean Water Act and the Clean Air Act. In fact, the largest portion—40 percent of EPA's funding request—is directed to the State and Tribal Assistance Grants appropriation to support their efforts.

Specifically, this budget proposes that $1.2 billion— nearly 15 percent of EPA's request—be allocated back to the States and tribes through categorical grants. This includes funding for State and Local Air Quality Management grants, Pollution Control grants and the tribal general assistance program.

The budget also proposes that a combined $2 billion—another 25 percent of EPA's budget request—also goes directly to the States for the Clean Water and Drinking Water State Revolving Funds. This funding will help support efficient systemwide investments and development of water infrastructure in our communities. We are working collaboratively to identify opportunities to fund green infrastructure, projects that can reduce pollution efficiently and less expensively than traditional grey infrastructure.

Additionally, EPA's budget request would fund the protection of the Nation's land and water in local communities. Reflecting the President's commitment to restoring and protecting the Great Lakes, this budget requests that Congress maintain the current funding level of $300 million for the Great Lakes Restoration Initiative. This support will continue to be used for collaborative work with partners at the State, local and tribal level, and also with nonprofit and municipal groups. The budget also requests support for protection of the Chesapeake Bay, and several other treasured and economically significant water bodies.

The budget reflects the importance of cleaning up contaminated land in our communities by requesting $755 million for continued support of the Superfund cleanup programs and maintains the agency's emergency preparedness and response capabilities.

EPA's budget request makes major investments in its science and technology account of $807 million, or almost 10 percent of the total request. This request includes $576 million for research, including $81 million in research grants and fellowships to scientists and universities throughout the country for targeted research as part of the Science to Achieve Results, or STAR program, including children's health, endocrine disruption, and air monitoring research. Also, as part of this request, EPA includes funding increases into key areas that include green infrastructure and hydraulic fracturing.

As I have mentioned before, natural gas is an important resource which is abundant in the U.S., but we must make sure that the ways we extract it do not risk the safety of public water supplies. This budget continues EPA's ongoing congressionally directed hydraulic fracturing study, which we have taken great steps to ensure is independent, peer-reviewed and based on strong and scientifically defensible data. Building on these ongoing efforts, this budget requests $14 million in total to work collaboratively with the USGS, the Department of Energy and other partners to assess questions regarding hydraulic fracturing. Strong science means finding the answers to tough questions, and EPA's request supports that work.

We are making investments to support standards for clean energy and energy efficiency. Specifically, this budget supports EPA's efforts to introduce cleaner vehicles and fuels to expand the use of homegrown biofuels. This includes funding for EPA's Vehicle and Fuel Standards and Certification program to support certification and testing for all emissions standards. This also includes implementation of the President's historic agreement with the auto industry for carbon pollution and fuel economy through 2025 for cars and light-duty vehicles, including testing support for NHTSA's fuel economy standards. Taken together, the Administration's standards for cars and light trucks are projected to result in $1.7 trillion of fuel savings, and 12 billion fewer barrels of oil consumed. This funding will also help support implementation of the first ever carbon pollution and fuel economy standards for heavy-duty trucks.

Mr. Chairman, I thank you for the opportunity to testify today. While my testimony reflects only some of the highlights of EPA's budget request, I look forward answering all of your questions. Thank you.

[The prepared statement of Ms. Jackson follows:]

TESTIMONY OF LISA P. JACKSON

ADMINISTRATOR

U.S. ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE SUBCOMMITTEES ON ENERGY AND POWER

&

ENVIRONMENT AND THE ECONOMY

COMMITTEE ON ENERGY AND COMMERCE

U.S. HOUSE OF REPRESENTATIVES

February 28, 2012

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Mr. Chairman, thank you for the opportunity to testify today. While my testimony reflects only some of the highlights of EPA's budget request, I look forward answering your questions.

Mr. WHITFIELD. Thank you very much, Ms. Jackson, and now at this time I will recognize myself for 5 minutes for the purpose of asking questions.

The first thing is really not a question, but on February 23rd, we sent a letter to the Honorable Jeffrey Zients, Acting Director of Office of Management and Budget, and when I say "we," 221 Members of Congress, requesting that EPA stop its greenhouse gas rulemaking. So my question is, have you seen this letter, Ms. Jackson?

Ms. JACKSON. Yes, sir.

Mr. WHITFIELD. And so you will take that into consideration as you move forward. Is that correct?

Ms. JACKSON. Well, the letter is not to me but certainly I have seen a copy that you sent.

Mr. WHITFIELD. And you have read it, correct?

Ms. JACKSON. Yes, sir.

Mr. WHITFIELD. Now, your number-one goal in the budget—it states very clearly that the number-one goal is taking action on climate change and improving air quality, and yet in your opening statement you didn't really mention climate change, and I was just curious, why not?

Ms. JACKSON. I actually did, sir. I mentioned it in relationship to the clean car standards, and as I said at the end of the statement, there is much in the budget that I don't have time to highlight, mindful of the clock.

Mr. WHITFIELD. But that still is the number-one goal for EPA?

Ms. JACKSON. Well, we have actually seven goals, but we have five that we outlined and it is listed first, and it is certainly one of our top priorities.

Mr. WHITFIELD. Now, I know that transparency is very important for all government agencies and for the benefit of our constituents, and we have actually, my staff and others, spent a lot of time just looking at the grants made by EPA, and it is extremely difficult to determine the total amount of grants issued by EPA. My question to you this morning would be, do you know the total amount of the grants given by EPA to foreign entities, foreign companies, foreign charitable organizations, NGOs? Do you know the dollar amount of those grants?

Ms. JACKSON. I believe we have—give me one second, please, Mr. Chairman. I know it is less than two-third of 1 percent of our funding for grant making in fiscal year 2011.

Mr. WHITFIELD. But do you have a dollar amount?

Ms. JACKSON. Well, I can give you the amount for foreign activities because very little of what is for foreign activity actually goes outside the country. That is $844,985.

Mr. WHITFIELD. Repeat that. Eight hundred and forty-four thousand is what now?

Ms. JACKSON. For activities that have to do with our international programs, sir. Many include——

Mr. WHITFIELD. That is OK. The reason I am asking this question is when we have a $16 trillion Federal debt and most economists believe that it is going to be a serious obstacle for economic development in the future, you said that eight hundred and some thousand for international, and we have found, for example, that EPA gave a $718,000 grant to the China State Environmental Pro-

tection Administration to help China comply with some of the Stockholm Convention agreements. We found that you gave $700,000 to the Ministry of Thailand related to methane gas at 12 pig farms in Thailand. We found that you gave money to Indonesia and so forth. Were you aware of this $718,000 given to the government of China?

Ms. JACKSON. Sir, I am aware that for many years EPA has funded grants that are international or trans-boundary in nature. We have an international office. As I mentioned to you, I am not sure of the year of the particular grants you are citing but oftentimes the proportion that goes outside to outside entities is very small.

Mr. WHITFIELD. For one, I don't think it is appropriate at this time when we have the debt that we have that we would be giving money, for example, to China, of which we owe them more money than any other country, and yet we are borrowing money from them and then turning around and giving it back to them to help them with their environmental issues. So I hope that you would look into that and take some consideration about that.

One other question I want to ask real quickly. I saw your presentation to the UC Berkley Law Institute on environmental issues, and in that presentation, you made the comment that this allegation that two hundred and thirty-some thousand additional people would have to be hired by EPA to implement its greenhouse gas regulations if they are implemented. You said that that was—you summarily dismissed that and said that is not going to happen because of your tailoring rule, and as you know, there have been lawsuits filed questioning the validity of the tailoring rule. So if it is determined that the tailoring rule is not legal, it is invalid, do you have money in this budget to hire those two hundred and thirty-some thousand people that you yourself said you would need to enforce the greenhouse gas regulations?

Ms. JACKSON. No, sir, because the number you are referencing was put forth in arguments by the government to show why the tailoring rule is so necessary, why it would be an unworkable result. That case of course is being argued, I believe, this morning.

Mr. WHITFIELD. Well, it is very clear, the Department of Justice submitted this, but anyway, I do think that you can't just summarily dismiss that you are going to win these lawsuits on the tailoring rule.

So my time is expired, and Mr. Rush, I recognize you for 5 minutes for the purpose of asking questions.

Mr. RUSH. Thank you, Mr. Chairman.

Administrator Jackson, as I indicated earlier, and you know this, I am a big fan of the work that you are doing, and I want to commend for your stick-to-it-iveness in protecting the public health and ensuring that all Americans have access to clean air and water, especially in light of the relentless attacks against you and the agency you represent, attacks that I think we just heard a few minutes ago.

One issue that was recently brought to my attention is the 316(b) rule that protects against the impingement and the entrainment of fish in cooling water intake structures that EPA is in the process of finalizing, and I don't want to get too much in the weeds on this

but I do want to make sure that the EPA is working with industry and listening to their concerns and recommendations before finalizing this rule. As you know, my main priority is protecting the public health and welfare, and I want to make sure that the EPA gets this right and finalizes a rule that we all can live with. I think it is very important that we remain mindful of the cost-benefit analysis when issuing a final 316(b) rule to make sure that we are not imposing undue costs that will in turn customers by unnecessarily raising energy prices.

So again, Madam Administrator, I just urge you to work with industry and make sure that in the end your agency finalizes a rule that makes sense and is fair to all of the relevant stakeholders, especially the human stakeholders first and foremost. I think you understand what I mean.

We have been hearing over and over again from my colleagues on the other side of the aisle about the undue costs associated with MACT rules, and I think that they are beginning to sound like a broken record over there.

Madam Administrator, one increase in this year's request that I would like for you to discuss during the remainder of my time is your Community Action for Renewed Environment, the CARE program. This is a very, very important and vital program to allow communities living in environmental hotspots to come together to work and address the dangers in their neighborhood. It is a small program, but it makes a real big difference, a small program that carries a big punch. Unfortunately, last year the appropriators defunded the program, and I am glad to see that the EPA is working to continue this vital program and is included in this year's request. Can you explain briefly what the CARE program is, who benefits and what will the communities be able to do with the $2.5 million?

Ms. JACKSON. Thank you, Mr. Rush. The Community Action for Renewed Environment grants are small grants. They go to community organizations to assist them in activities such as monitoring, community education and awareness, assistance. Much of environmental protection now is individual protection, actions that individuals take to either understand threats to their environment or to change their own actions, and so they have gone to a variety of groups, but they are pretty small grants and they go to nonprofit organizations, community groups around environmental issues.

Mr. RUSH. These grants to local community-based organizations, what has been the history, if you can, of the results of these programs?

Ms. JACKSON. Yes, sir. The community groups are extremely fond of them. I have been asked several times about why they are being zeroed out. As you mentioned, they were zeroed out by the appropriators and so in this cycle, we are attempting to put the money back in. We have had several examples of beautification projects that people undertake to address local environmental issues. That can be things like training people to be aware of litter, which is still a persistent problem in many, many communities. It can also mean understanding specific local issues, whether it be a small business that may need some assistance to understand that is having an impact on the community. We have lots of people who come

together around watershed issues, beloved watersheds, pharmaceutical collection days or hazardous-waste collection days, and efforts to encourage businesses to separate waste in order to [not discernable]. I have one from Marquette, Michigan. It is a 2006 CARE level grant, Earthkeepers Partnership. It included 140 congregations, 25 regional pharmacies, police departments, the Keweenaw Bay Indian community, dental offices and the financial community all coming together to protect the environment.

Mr. RUSH. A great program. Thank you.

I yield back the balance of my time.

Mr. SHIMKUS [presiding]. The gentleman's time has expired. I thought you may grab my question when you were talking about the cooling tower, Bobby. Too bad it is not in our committee of jurisdiction. Otherwise we could work together on that.

I would like to recognize myself for 5 minutes for my questions. Again, welcome, Administrator Jackson. I have got four that I am going to try to rush through. It is very difficult, as you know. Lynn Westmoreland, my colleague from Georgia, is in the front row, and he and I were actually emailing over the weekend based upon a budget submission, so I represent rural America, he represents rural America. So in your spending guidance for the $212 million, it will distribute $15 million in drinking water tech assistance. Do you agree that it does not include the Congressional directive to prioritize funding that is most beneficial to small communities?

Ms. JACKSON. I don't agree, sir, but I would have to——

Mr. SHIMKUS. It is a small amount. I know it might be difficult, so if you would get back to us on that because the Congressional intent was to make sure small communities would find the technical assistance most beneficial, and we think that if we——

Ms. JACKSON. Actually, I have an answer if you don't mind my correcting myself.

Mr. SHIMKUS. OK.

Ms. JACKSON. EPA is not requesting funding in the 2013 budget for technical assistance because the agency believes that the States are best positioned to develop the technical assistance plans. The States are allowed to set aside 2 percent of their Drinking Water State Revolving Fund for small systems, and most states are using that set-aside.

Mr. SHIMKUS. OK. Well, we are going to follow up on this legislatively to implement a directive asking you to consider small water applicants that demonstrate the level of support of small communities. In small town rural America, they don't have the ability of large municipal systems and money, so if we can work on that, I think Mr. Westmoreland would appreciate it. We would like to talk to you about that.

Now I want to go Superfund cleanup speed and funding. Sandoval Zinc Company was added to the National Priorities List in 2011. It is in my district. I have visited it. There are lengthy delays obviously when something gets on the cleanup list. Can you tell me what percent of remedial budget you spend on physical cleanup versus administrative costs? My point is this—and that is something you can get back with me too on. The point is, when we talk with the region headquarters, I have been told numerous times, we can clean this up rapidly when it is initially identified,

but if it is delayed, then it gets into the whole system. Then you have litigation, and the cost-benefit analysis of moving quicker versus later is great.

Let me move to the definition of solid waste issue. Case law and the waste statute is pretty clear. Do you agree that RCRA applies to discarded material disposed, abandoned and thrown away?

Ms. JACKSON. The RCRA statute, yes, the waste disposal, I believe that is part of the definition of waste.

Mr. SHIMKUS. Right. Do you agree that recyclable material is not discarded for permanent disposal, it is defined for beneficial re-use?

Ms. JACKSON. Yes, although as you know, the definition of recycled material is subject to certain regulatory findings.

Mr. SHIMKUS. Well, that is where we are headed. Since we agree case law and statute are clear, what specific authority do you have to change the definition of solid waste under RCRA?

Ms. JACKSON. Well, we can't change any statutory definition.

Mr. SHIMKUS. That is exactly what—that is good. We can follow up with that. There is a fear that you are, and it affects the recycling industry, the beneficial-use section.

I still have a minute and a half left, and I want to get to—RCRA 2002 subsection B requires you to review all regulations every 3 years. You are about to be sued by the environmental community for failure to comply with this part of the law. Do we really want an agency to go down a very costly path reviewing regulations based on an arbitrary date that will be impossible to meet? So the question is, Is reviewing all regulations every 3 years even feasible? I mean, you have been there. You are going in your fourth year. In this, third year, the end of third, now your fourth year, have you been able to review all EPA regulations?

Ms. JACKSON. I think EPA has a statutory obligation which we try to meet, but there are plenty of cases where we are not on——

Mr. SHIMKUS. It is actually not feasible.

And then the other issue, as we are trying to analyze all these, can you give me a cost projection of what it is just to try to evaluate all these regulations within a 3-year time frame as statute requires?

Ms. JACKSON. Well, it is not without cost and resources. We are in the middle of the review that the President ordered to look for outdated regulations.

Mr. SHIMKUS. And I think that is an important point. So as we talk about this, whether you want to work with us or not, I think it would be in both of our interests if we can design a system that identifies science problems and then reevaluate those rules versus just having an arbitrary 3-year review process that we can never meet, that throws us in litigation for not meeting, and it would help the Administration try to put aside things that we can't do and not try to accomplish all this stuff that we are never going to be able to do.

I appreciate your time, and with that, I yield back the balance of my time. The chair now recognizes Mr. Green, for 5 minutes.

Mr. GREEN. Thank you, Mr. Chairman.

Again, welcome, Madam Administrator. Like all of us, I have a lot of questions in the 5 minutes. My first question is, first of all, the sale of fraudulent biodiesel credits has emerged as a serious

issue affecting the motor fuel sector, and these credits originally came from a company called Clean Green Fuels that EPA had been investigating for well over a year. It turned out the company was a sham and could not produce any actual biodiesel but was making money selling fake credits. The problem is, Clean Green Fuels was an EPA-approved producer and its credits were listed in the agency's automated transaction system so it looked like they were legitimate. The EPA did not inform any of the potential buyers of the investigation while it was underway, but rather than treating the refiners who purchased these fraudulent credits as victims, your agency decided to go after them with notice of violation in November of 2011. Why did the EPA go after the good-faith purchasers of these credits in November of last year?

Ms. JACKSON. Well, Mr. Green, we understand the importance of the RIN market. It is a marketplace and it is important to the marketplace that there be valid credits and that those who are buying them, as we say in our rules, ensure that they are buying valid credits. There is fraud that is potential in the system, and although we enforce to look for opportunities to crack down on fraud, part of the system in this marketplace also requires that buyers beware and that they ensure that what they are buying, that they make some effort to ensure that they are not being subject to fraudulent credits.

Mr. GREEN. Well, obviously, I think that the EPA has them listed on the automatic transaction system. You know, punishing the good-faith purchasers may be a little over the top instead of going after them. Could EPA have done a better job of preventing the fraud and protecting those companies who were required to buy these credits in order to comply with the law?

Ms. JACKSON. Well, you know, I think EPA did its job in responding to a complaint. We went to the so-called producer of this biofuel. There was nothing there in one case. There are two cases. In one, there was literally nothing there, and the other, they had shut down all the equipment and were selling for fuel they weren't making. So EPA did its job. It certainly had notified those who had purchased and it made clear—you know, in order for the marketplace to be fair for those who are doing the right thing, there has to be a penalty for those who are not doing the right thing, and people need to ensure that what they are buying represents more than just a piece of paper.

Mr. GREEN. Well, I agree, we want to do that, but I want to make sure that we don't end up punishing folks who are trying to comply with the law based on the EPA system. Is EPA considering changes to prevent similar instances of fraud from reoccurring, maybe more immediate investigation and more timely notice to the purchasers?

Ms. JACKSON. Sir, EPA's limited enforcement resources are spread pretty thin. When we found out about the case, we certainly went out and enforced against it, but our rules are very clear that it requires both parties, the buyer and the seller, to engage in ensuring that what they are doing is actually not fraudulent but real production of biofuels. It is important to the small producers and the large oil companies who are buying these RINs certainly have resources that they could bring to bear as well.

Mr. GREEN. I know we have some large oil companies and large refiners, but again, in some cases they relied on information from the EPA.

My next question is, the President's budget for fiscal year 2013 includes an interagency study that the DOE, EPA and the U.S. Geological Survey are partnering on to examine environmental and health effects of hydraulic fracking. Can you explain the purpose behind the study and how this is any different and what the EPA has been currently doing?

Ms. JACKSON. Certainly, Mr. Green. The study is an expansion. Right now EPA is doing a Congressionally mandated study to look at the impact of hydraulic fracturing on drinking water supplies that has been publicly scoped and independently reviewed as we are beginning it. This is additional money to work with our partner agencies, as I said in my opening remarks, to look at air quality, water quality and ecosystem impacts, to ask the hard questions to ensure that fracking remains safe.

Mr. GREEN. I understand that independent peer review will be incorporated. Will there be stakeholder input to be incorporated?

Ms. JACKSON. Well, we are just beginning to scope that with our Federal agencies, and obviously we have to wait for budget approval, but I think we would look to do a transparent and valid study and look for public input as well.

Mr. GREEN. And I know you and I have discussed in the past. Would you agree that there is no way we can develop our vast natural gas resources without the use of hydro fracking?

Ms. JACKSON. That is right. The natural gas resources that the country has are in shale rock, and fracking is the way to release those resources. It needs to be done safely and responsibly but it would need to be done.

Mr. GREEN. And I think we agree responsibly, but we still need the natural gas.

Mr. Chairman, I don't know how much time I have, but one last question. Not everything is cut in the budget, and I said earlier this request included some important programs like the Electronic Manifest System. The current system of paper manifest is outdated and labor-intensive and simply not as safe as it should be. Administrator Jackson, what is the purpose of the Electronic Manifest System?

Ms. JACKSON. Well, to move to a paperless system. It is easier for record generation, record retrieval, transparency of information. It is about $2 million in our budget, and we think that it would be a giant step forward and mindful of the times we are in, sir.

Mr. GREEN. The cost of the system is $2 million, and did you receive that amount? And I know I am out of time.

Ms. JACKSON. None, sir. In '12 we did not, and we are requesting it in '13.

Mr. GREEN. Mr. Chairman, I have run out of time, but I know Chairman Shimkus and I have talked about some of the things we can do with this, and so I look forward to working with you on it.

Mr. WHITFIELD. At this time I would like to recognize the gentleman from Texas, Mr. Barton, for 5 minutes for questions.

Mr. BARTON. Thank you, Mr. Chairman.

Madam Administrator, back in October, I think October 12th, you appeared before a hearing of this committee, and I asked you a question about the number of credit cards at the EPA and what the limits were and how much money was spent and what is the criteria. We put that in a follow-up letter to your Administration on November 1st. We have still not gotten an answer. Can you enlighten us on the status of that query and what the response is going to be to it?

Ms. JACKSON. I think you have your EPA women mixed up. I think that was Ms. Bennett's hearing, and we will certainly endeavor to get you an answer as soon as we can.

Mr. BARTON. Do you know where it is? Do you know anything about it other than we haven't got any response at all?

Ms. JACKSON. I know we are preparing a response and you will be getting a response soon.

Mr. BARTON. OK. You have been doing quite a bit of travel, which is a good thing, I think. I don't have a problem with Administration officials traveling. But some of the locations seem a little bit, I won't say puzzling but interesting. You were recently down in Brazil at a conference on urban sustainability. Can you tell us what urban sustainability is?

Ms. JACKSON. I accompanied the President of the United States when he visited Brazil to meet with President Rousseff and there the two presidents decided to focus on sustainability issues in advance of Rio+20 conference, which is a U.N. conference to be held in Brazil. Urban sustainability is an issue facing Rio de Janeiro as they look at the gains that are coming in the next several years and as the large influx of people into cities in much of the developing world, they asked us for information on what cities here are doing that help them to be green, to help them to save energy, to feed their people, to provide energy and water and waste for all those people who are moving in. We are working with the city of Philadelphia and they are doing some very innovative wastewater work.

Mr. BARTON. Can you tell us what that trip cost?

Ms. JACKSON. Not off the top of my head, sir.

Mr. BARTON. Can you tell us what your travel budget is?

Ms. JACKSON. We can certainly get you the information.

Mr. BARTON. Can you tell us who sets your travel budget?

Ms. JACKSON. Our overall travel budget is down and has been decreased every year. I set our agency's budget by asking our folks to as much as possible——

Mr. BARTON. Would you say your personal travel budget is several million a year, several hundred thousand a year, tens of thousands?

Ms. JACKSON. I don't know. We are happy to get you the numbers.

Mr. BARTON. You don't have any idea, and you don't have any idea who sets your budget? Is it just up to you?

Ms. JACKSON. Well, I am the head of the agency. I take responsibility for the reductions in travel that have happened every year that I have been here, yes, sir.

Mr. BARTON. I want to ask about your nonprofit grants. We went to your Web site, and some of them seem to be absolutely total

sense—the Air and Waste Management Association, the American Lung Association—but some of them are a little bit puzzling. You have got a thousand friends in Iowa that you gave $30,000 to. You are better off in Pennsylvania. You have 10,000 friends that you gave $85,000 to. Alabama People against a Littered State got $75,000. But then we come to some that I am very confused. The Bible Baptist Church got $200,000. Why would EPA give money to a Baptist Bible church for $200,000?

Ms. JACKSON. Why not, sir?

Mr. BARTON. How about Camp Kumbaya? Your Administration gave $20,280 to Camp Kumbaya. Can you tell me what that is about?

Ms. JACKSON. I am happy to get you information on any of our small community grants, sir.

Mr. BARTON. I mean, what is the environmental core mission of Camp Kumbaya?

Ms. JACKSON. I don't personally know Camp Kumbaya, sir, I have never been there, but I am happy to get you information.

Mr. BARTON. How about Art from Scrap?

Ms. JACKSON. Art from Scrap?

Mr. BARTON. Art from Scrap. You gave $18,000 to Art from Scrap.

Ms. JACKSON. Yes, sir.

Mr. BARTON. Not you personally. Do you know what the nonprofit budget is for the EPA?

Ms. JACKSON. We give several grant programs. I am guessing, but it is simply an uneducated guess, which you are not supposed to do in a hearing. Many of these are under the community act——

Mr. BARTON. Is it hundreds of millions? Is it tens of millions?

Ms. JACKSON. It is more than millions. It is probably several million because the CARE grant program in the past has been about 2 to 2 1/2 million a year. It was zeroed out this year so we are not giving those grants and I can tell you that many communities are concerned.

Mr. BARTON. I would be interested in at least in why Camp Kumbaya. That just seems to me to be a little bit difficult to justify.

Anyway, my time is expired, Mr. Chairman.

Mr. WHITFIELD. Thank you. At this time I will recognize the gentleman from Michigan, Mr. Dingell, for 5 minutes of questions.

Mr. DINGELL. Thank you for your courtesy.

Madam Administrator, yes or no, I see that the President's fiscal year 2013 budget request for CERCLA, or Superfund, is $35 million less than the current fiscal year. Are you comfortable that CERCLA can continue to carry out its responsibilities in the current cleanup obligations without slowing down current efforts this reduction in spending? Yes or no.

Ms. JACKSON. Yes, but we cannot start any new cleanups, sir.

Mr. DINGELL. So that may very well slow you down, and I am referring to cuts here in both Superfund in general and in enforcement.

Now, next question. I along with two of my colleagues from the Great Lakes region will request the Appropriations Committee maintain level funding for the Great Lakes Restoration. I know

that you have been supportive in the past restoration efforts in the Great Lakes. Do you believe that level funding will adequately support Great Lakes restoration and invasive species prevention and control efforts? Please answer yes or no.

Ms. JACKSON. Yes.

Mr. DINGELL. Madam Administrator, as you are aware, the State of California is moving forward with a level III tailpipe emission standard for carbon monoxide, NOX and hydrocarbons. What is the status regarding equivalent standards?

Ms. JACKSON. EPA has undertaken a look at reducing the level of sulfur. Those are the so-called tier III standards. They are essentially similar to California's, and that rulemaking continues. We are working still in-house on proposals.

Mr. DINGELL. Thank you. Madam Administrator, what is EPA doing to ensure that American manufacturers, more specifically, American auto manufacturers, will not have to worry about a patchwork of regulations on these requirements.

Ms. JACKSON. Sir, the national car standards, clean car standards, which EPA is proud to have partnered with the Department of Transportation on, give one national standard for vehicles for both fuel economy and greenhouse gas emissions from now until the year 2025. We have been told over and over again that those reasonable commonsense standards give automakers the ability to innovate, to move forward with a clear set of standards so that they can go about their business and grow manufacturing and we hope grow exports of their product.

Mr. DINGELL. Regarding the Mercury and Air Toxic Standards, if utilities need a 1-year extension, they need to request it from their local permitting authorities, in my case, the Department of Environmental Quality of the State of Michigan. What assurances can you provide that EPA will not override the permitting authority's decision to grant that 1-year extension?

Ms. JACKSON. Well, first, I believe very strongly that State permitting agencies, having run a permit agency myself, are the front line and know their individual permittees best, but second, the President of the United States at the time that we issued those standards ordered an Executive Order for EPA to give the additional year to be lenient and to work to ensure that States did it. It is still their ultimate authority as to whether or not to give the year but EPA is certainly not posed or poised to override the President's Executive Order.

Mr. DINGELL. Now, Madam Administrator, utilities in the State of Michigan are concerned that they will first have to be in violation of the Mercury and Air Toxic Standards before requesting a second-year waiver to comply with the new standards. Is that the case? Yes or no.

Ms. JACKSON. No, it is not, but it does bear a little explanation, sir.

Mr. DINGELL. Would you give us some more comment on this for the purposes of the record, if you please?

Ms. JACKSON. Yes, sir. What we have asked utilities to do, and which I believe they are doing, is working with their public utility commissions and State regulators now to look forward and put forth their plans for their fleets on how they are going to comply

with the standards. If in doing so they identify plans that they believe need to go longer than that fourth year, then——

Mr. DINGELL. Now, we have this concern. If not, what do the utilities in Michigan or elsewhere need to do in order to be given that second 1-year extension? That is a matter of great concern to our people.

Ms. JACKSON. I think the earlier that they can come forward, sir, and let us know that they believe they are going to need that second year, not waiting until the end when they do face noncompliance, they can and we can work with the State to ensure that through an agreement they have additional time. They will have to show that they need the time and that there is no other power, but those are findings they need to make.

Mr. DINGELL. Now, Madam Administrator, I understand that the New Source Performance Standards are currently being reviewed by OMB. Can you tell me if the standards will apply to modified sources? Yes or no.

Ms. JACKSON. Sir, it is not a good idea for me to speculate on rules that are still in review. So I would prefer, respectfully, to ask that we wait until those rules are out for public comment. They will go through a full public comment. But I can tell you that we have endeavored to be reasonable and to reflect the fact that technology is limited for existing sources.

Mr. DINGELL. You can understand that our people have a great deal of concern on this matter.

Mr. Chairman, I thank you for your courtesy.

Mr. WHITFIELD. Thank you.

At this time I recognized the gentleman from Nebraska, Mr. Terry, for 5 minutes.

Mr. TERRY. Thank you, Mr. Chairman.

Madam Administrator, I am concerned about the efforts being undertaken at U.S. EPA to supplant State regulators as the primary regulators on a number of environmental issues, particularly in areas where the States have been sole regulators for decades. Quite frankly, I am very proud of my folks in Nebraska and think they have done a fine job.

Since this is a budget hearing, it strikes me as if the Federal Government were going to push the States aside so it can occupy the regulatory field in a way it never has, that you are going to need lots of new bodies in your regional offices and D.C. headquarters as well as new budget authority to pay for these people and programs. So I would appreciate it if you would please state, the first part of the question, the additional budget authority EPA needs to increase its in-house expertise and expand its programmatic and enforcement reach to carry out these authorities, especially as it relates to permitting, inspections, technical compliance assistance and regulatory enforcement.

Ms. JACKSON. In fact, Mr. Terry, in general, the budget goes in a different direction. I used to run a State program, and I have committed that while I am here we are going to increase grants to the States and the tribes so that they can do permitting and enforcement. There is a net $113 million increase in what we call the State-tribe categorical grants, even in a tough budget year. It is one of the few places we are plussing up—air quality, water pollu-

tion tribal grants, information management. Those are computers and public water supply. There are a few places where we are cutting, for example, beaches, not a huge concern, I know, in your State, but certainly I have heard from some of your colleagues. But the money is up because we believe that never should the Federal Government supplant the States.

Mr. TERRY. So the budget increases will be grants part, not the personnel within the EPA, particularly in Region 7?

Ms. JACKSON. Well——

Mr. TERRY. Is that a yes or no? I only have 5 minutes.

Ms. JACKSON. We are not looking—we are looking at overall personnel decreases, I believe, sir.

Mr. TERRY. Well, I think it is an increase of 25.

Ms. JACKSON. It is an increase of 25 people across our 17,000-plus-person agencies, so we are not talking about——

Mr. TERRY. Now, what would be the impact to regulatory uncertainty between the States and the EPA and State primary delegations?

Ms. JACKSON. Could you repeat the question?

Mr. TERRY. I am going to go on to the next one. I am sorry.

In fiscal year 2013, are you planning to propose revisions to the National Ambient Air Quality Standards for Particulate Matter? If so, when?

Ms. JACKSON. Yes, probably. They are due by statute. We have not announced a date, and that date has not been set.

Mr. TERRY. Can we be assured that the EPA will not be proposing any change to the current PM10 coarse particulate standards?

Ms. JACKSON. Yes, I have so stated, sir. We do not anticipate based on the science that we have seen so far that a change will be warranted, but again, the proposal——

Mr. TERRY. OK. Does the EPA publish in one publicly accessible place a list of all the petitions for rulemaking that are submitted to the agency?

Ms. JACKSON. I do not believe so, sir, but we will double-check the answer to my question.

Mr. TERRY. All right. We haven't found one if there is. So when you check and confirm that there is not one place that the public or Members of Congress can go to, will you commit to posting that information on the EPA's Web site starting this year?

Ms. JACKSON. Of petitions, sir?

Mr. TERRY. Yes.

Ms. JACKSON. I think that is a fair request I am happy to consider, sir.

Mr. TERRY. All right. I yield back.

Mr. WHITFIELD. Thank you, Mr. Terry.

At this time I recognize the gentleman from New Jersey, Mr. Pallone, for 5 minutes.

Mr. PALLONE. Thank you, Mr. Chairman.

I want to welcome Lisa Jackson before our committee. I worked with her for many years dating back to her time as the commissioner of the New Jersey Department of Environmental Protection. Since you have been at the helm of the EPA, I believe our country has made great strides in improving air quality, protecting Amer-

ica's waters and cleaning up our communities, and these accomplishments are crucial to protecting human health and the environment.

Unfortunately, the Republicans in Congress and on the campaign trail in particular are attempting to argue that protecting our environment is somehow hurting our economy. I don't think that is true. I don't think you need to choose between a strong economy and a clean environment. I think they bolster each other, and I think oftentimes my colleagues on the other side made broad generalizations without looking at the facts. According to the nonpartisan Economic Policy Institute, EPA's toxics rule will lead to the creation of 84,500 jobs between now and 2015, and I just mention that as one example about safeguarding our environment can help bolster the economy. I know in tough economic times, it is difficult, choices have to be made, but I have confidence, Lisa, that your agency will continue its success in protecting human health and the environment.

I wanted to ask a couple questions specifically about New Jersey. As you know, in the State of New Jersey, we have the most Superfund sites in the Nation. We are the most densely populated State, and it is crucial that these sites be cleaned up. The President's budget proposes the lowest level for Superfund cleanup in the last 10 years, and that is going to make it difficult to expedite cleaning up these sites. I think it also states in the budget that there will be no new construction protections, and this goes back to the issues of jobs again. Cleaning up Superfund sites provides quality jobs in local communities.

Before it expired in 1995, the money to clean up the Superfund sites came from taxes on polluters but unfortunately, because Congress has not reauthorized the taxes, the burden of funding cleanup now falls on the shoulders of taxpaying Americans. I have introduced a bill, the Superfund Polluter Pays Act, which would reinstate the taxes on oil and chemical companies, and I just wanted to ask you, given the fiscal austerity in our current budget, do you agree that reinstating the Superfund taxes would enable EPA to clean up these toxic sites faster and create more jobs?

Ms. JACKSON. Yes, sir. The Administration has come out in favor of reinstatement of that tax.

Mr. PALLONE. Now, I heard you mention the elimination of the BEACH grants in the President's budget proposal. That program—actually I was part of the original authorization of the BEACH grants and the reauthorization. It was funded at only $10 million last year, but these grants have resulted in a number of monitored beaches tripling nationwide since the program started, and States utilize these funds to monitor water quality, notify the public when the coastal waters are not safe. I am just afraid that without these grants, the trend will reverse itself and many states will just choose to stop monitoring many of their beaches. So I wanted to ask you if you think that EPA's BEACH grants have been successful over the years in expanding the number of beaches tested and keeping swimmers out of contaminated waters. Comment on the program, if you would.

Ms. JACKSON. Yes, sir. As I said, I knew some of the colleagues wouldn't be happy here.

Mr. PALLONE. I would have asked it anyway, even if you hadn't brought it up.

Ms. JACKSON. BEACH grants have been very successful, sir, and this is one of the tough choices, but it is mindful of the past success, which is what influences our decision. For most of the history and thanks to your leadership, the grants helped establish monitoring programs and systems and teams of people who now do that work, and this is simply the Federal Government saying that this really is a State or local function. It is best done that way. I certainly know that that is how it is done primarily in New Jersey and our time for funding this, the seed funding, is over and it is time for those communities to take over.

Mr. PALLONE. See, the reason I disagree, and I really think it is important for us to restore the funds, is because you are right that when New Jersey had it on its own and you were the commissioner at the time, that we did a lot to fund the program and we did all the things that we were supposed to do, but the problem is, other States were not doing it, and then it becomes an unfair advantage. In other words, you know, we are closing our beaches when they should be closed; other States are not because they don't do the testing and the monitoring, and I really think that the program right now—we have a reauthorization bill to expand it to a lot more things than are actually being done now, tests for different chemicals and compounds that aren't tested for now looking for sources of pollution. So my fear is that if we eliminate the Federal dollars, a lot of States won't do it and we won't really know—the whole idea is right to know and we won't really know which beaches should be open and which are not. In fact, a lot of States don't even want to do it because they don't even want to admit they have dirty beaches. In addition to that, I think that the Federal dollars can leverage more State dollars to do more things with the program. So I am going to fight hard to try to get that money reinstated, and I appreciate your acknowledging that it is really money well spent. Thank you.

Thank you, Mr. Chairman.

Mr. WHITFIELD. Thank you, Mr. Pallone.

At this time I recognize the gentleman from Michigan, Mr. Upton, the chairman of the full committee, for 5 minutes of questions.

Mr. UPTON. Thank you, Administrator Jackson, for being here this morning. I do have a couple questions. I apologize for being in and out. There are lots of different things going on.

I appreciated the letter that I think Gina McCarthy sent yesterday to Chairman Whitfield, and in that letter on the first page, you write in the last paragraph in that first page, "That is why EPA conducted extensive refinery modeling to understand the cost impacts of a variety of fuel requirements. As a result the only fuel requirement we are considering for tier III is one that would lower the amount of sulfur in gasoline." So my question is, does that mean that you will not look at the Reid vapor pressure or the octane components of a final rule? Is that what I read between the lines?

Ms. JACKSON. Yes, I think that is pretty much—yes, sir, I agree with that.

Mr. UPTON. Good. Now, we are all concerned about job losses across the country, and I know there was a study that came out showed a number of refineries that are closing from California, New Mexico, New Jersey, Virginia, Pennsylvania and the Virgin Islands that total 5,500 jobs, and they are closing for a variety of different reasons, and one of the reasons is the regulatory burden that many of these have, and I know that with the refineries that are closing, particularly in Marcus Hook, Pennsylvania, as well as in Philadelphia, the Sunoco refineries there, totaling about 2,000 jobs, there is a concern that the fuel for those areas will be coming in from overseas and will be refined, losing those jobs.

The question is, have you taken a look, as we all are concerned about the planet, have you taken a look at the regulations that our refineries currently have versus what they are in some of the new refineries that have been built in the world such as China and in the Caribbean? Have you actually looked at the difference in the regulations between what we have when we close those refineries, what in fact that refined oil will have in terms of the regulations impacting them?

Ms. JACKSON. Well, generally, yes, I think the program specialists have an understanding of the differences between our regulations and maybe other countries. Of course, the Virgin Islands we regulate and have regulated for years and the Virgin Islands government.

You know, I have to say that those private sector decisions about refineries and their decisions to close, I have not seen any of them pointing directly to regulatory burdens in their decision making, and I think the Administration is going to look carefully, especially at the recent decisions and keep an eye on them and also hope that they work with local and regional parties to address any shortages that might cause.

Mr. UPTON. Well, as I understand it, one of the main reasons that the refineries are closing in the Philadelphia area is that they are now going to refine that in Nigeria rather than in the United States, and it was in large part because the cost differential between the two.

Ms. JACKSON. Sir, again, it is a private sector decision. I don't—I will not speak for them. I will tell you that my understanding has been about supply, but I only know what I read of their decision-making process.

Mr. UPTON. EPA was recently criticized in the magazine The Economist for how it measures benefits from the expensive MACT rules. I don't know if you saw the story or not. It was just recently here, the February 18th issue. The article explains that when analyzing the costs and benefits of the rules, most of the benefits come from co-benefits, and the question that I have, why doesn't the EPA take the time to analyze the public health benefits associated with most of the pollutants actually being regulated and wouldn't that much more sense?

Ms. JACKSON. I personally believe that the co-benefits and the economic benefits of those are valid and important, but to answer your question more directly, in the case of mercury, for example, which is a neurotoxin, the social science of economics simply isn't to the point where EPA can put a number on the value of lost IQ

points or some of the things we would be asking to try to value. We certainly know and have good science and data to do things like premature deaths from soot pollution or asthma attacks from smog-forming pollutants but mercury is admittedly more difficult and so we do the best we can on mercury but we don't ignore the co-benefits as well.

Mr. UPTON. As you know, we passed legislation in the House to try and extend the time for these boiler MACT rules to be put into effect to allow you more time. The Federal court made the decision that they did in January. Are you still—are you at all interested in the House or Senate moving such legislation for a delay to give you the time to do these right?

Ms. JACKSON. We are certainly mindful of the work that has been done here, sir, and I do hope that you know that we have been working in our reproposed rules. The cost of compliance went down by 50 percent, mainly because we are taking into account the importance of biomass and acknowledging that that is going to be important feedstock. So we are looking at—as you know, right now the boiler MACT is set for finalization in late spring of this year.

Mr. UPTON. I see the red light on. I yield back.

Mr. WHITFIELD. Thank you.

At this time I recognize the gentlelady from Florida, Ms. Castor, for 5 minutes of questions.

Ms. CASTOR. Thank you, Mr. Chairman, and welcome, Madam Administrator and Ms. Bennett.

Citizens across America value clean air and clean water, so I want to thank you and everyone at EPA for what you are doing to protect our air and our water and for your partnership with the States and local communities. Now, two of the most important partnerships with our local communities involve the State clean water and safe drinking water loan programs. These are the vital dollars that help with stormwater infrastructure, replacing old pipes, wastewater infrastructure. It is not real exciting but they are important when it comes to keeping our neighborhoods clean and our water bodies clean all across the country. They are also important job creators too, and the Recovery Act gave us a nice shot in the arm to help create jobs while at the same time leaving us with a lasting legacy of important infrastructure improvements.

The issue is that the needs all across the country outweigh the resources. How would you characterize the backlog right now in stormwater, wastewater infrastructure? What is the magnitude?

Ms. JACKSON. Independent estimates have put it at around $300 billion, I believe.

Ms. CASTOR. Three hundred billion dollars, and I would guess in my home State of Florida, it is well beyond a single billion. It is probably much more than that. We have these aging water pipes. They need improvements. So I am troubled that the budget request actually provides a haircut. How do you explain this?

Ms. JACKSON. Tough choices, Ms. Castor. You know, we balance it by the fact that we have—because as you noted, the Recovery Act gave such a shot in the arm to these programs. It has been around $18 billion during this administration put into water infrastructure programs, and it is another cut, tough, tough choices, but we are at the point where we don't really have many places we can cut ex-

cept in these infrastructure investments. We are also mindful that we would like to get to a place where these are loan programs for the most part, where is a revolving, almost self-sustaining point, but we are years away from what.

Ms. CASTOR. Well, I hope the Congress will respond overall by giving a boost to these vital clean water and drinking water initiatives that are important partnerships for our local communities and the States and find savings elsewhere in the budget.

Next I would like to ask you about the good news out of the Administration on more fuel-efficient cars. I think this is great news for American families and businesses. It appears that you all are building on the success that the Congress in 2007 passed the first increase in automobile fuel economy in 32 years. That was since 1975. We boosted mileage to 35 miles per gallon by 2020, and I have to tell you, I have a member of the family who last year bought one of these fuel-efficient cars. He is getting 50 miles per gallon, and he really enjoys driving past these gas stations no matter what their signs have posted.

Can you summarize for us what next steps are? What is EPA doing to work on even more fuel-efficient vehicles?

Ms. JACKSON. As you noted, Ms. Castor, and thank you, the final rules for 2012 to 2016 light-duty vehicles were finalized in April of 2010. We have proposed rules for light-duty vehicles—those are cars—2017 to 2025. Those were proposed in November. We anticipate finalizing those later this year. We signed and published rules for heavy-duty vehicles. Those are large trucks. They were published in the Federal Register in September of 2011.

Ms. CASTOR. And put it in terms of the average American family and business. What does it mean? Cash back in their pocket?

Ms. JACKSON. Absolutely. This means more money in your pocket and less trips to the gas station. It means that $1.7 trillion saved over the lifetime of the cars going all the way to 2025. Twelve billion barrels of oil will never have to be imported to this country. So for the average car owner, as the cars get more and more efficient, up to $8,000 in fuel savings over the life of the car, more than made up for a little additional price up front. So we are very proud of it because we feel as though it is part of the President's approach, which is we need to have energy but we also need to conserve the energy we have, and it is positioned our automakers to compete with automakers around the world.

Ms. CASTOR. I think it is making a real difference. Thank you.

Mr. WHITFIELD. The gentlelady's time is expired.

At this time I recognize the gentleman from Oregon, Mr. Walden, for 5 minutes.

Mr. WALDEN. Thank you very much, Mr. Chairman.

Ms. Jackson, it is good to have you back before the committee. I wanted to follow up on something that my colleague from Nebraska, Mr. Terry, had raised regarding putting things on the Web site, and it is my understanding that, you know, you are an advocate for transparency in the process as I am, having chaired the transition for the Speaker here in the House trying to open up our process, make it more transparent to the public because that is who we both work for at the end of the day. My understanding is that there are situations where groups file suit against your agen-

cy, and literally on the same day they are settlements entered into by your agency with those groups, and I guess what we are trying to get at here is trying to make sure that the public has an awareness of that sort of litigation and so when it is filed against your agency, are you willing to notice that on your Web site in a very timely manner? This would be the notice of intent to sue so you get a notice of intent to sue.

Ms. JACKSON. Yes, sir.

Mr. WALDEN. When you get those, is there a way you could just put those up on the Web site so that the American taxpayers would know? Would that be a hardship on the agency?

Ms. JACKSON. It would require some minimal resources. We are happy to do it. I am not aware of any settling the same day. Usually when we receive a lawsuit, we are almost always called by the press and we simply say that we are reviewing it.

Mr. WALDEN. But when you get the notice of intent to sue?

Ms. JACKSON. Right. Those are not actual lawsuits. Those are 60-day notices.

Mr. WALDEN. Right. Can you put those up on your Web site?

Ms. JACKSON. I think so, absolutely, sir. I will look into the resources that are required to put that up, but it seems like a fair request.

Mr. WALDEN. People are interested in that, obviously.

Ms. JACKSON. My 16-year-old can probably figure out how to do it.

Mr. WALDEN. There you go, and fix the flashing clock on the—well, we don't even have VCRs anymore, do we?

So I guess that is the part, and when you are going to enter into a settlement, is there any noticing that can be done for the public to know about that? Because there is this concern that—and it can happen on the right, it can happen on the left if you get a notice, you know, some day after you are gone and somebody else is there. It doesn't seem fair that a group can threaten to sue, notice of intent to sue, and the agency can then sit down and make it almost a friendly lawsuit and reach a settlement and agreement and the public really never sees that in a transparent way.

Ms. JACKSON. I can assure you, sir, EPA does not enter into sweetheart settlements, and so if there is information that we can provide—when we enter into consent decrees, of course, those are subject to public comment before the consent decree is lodged with the court, and if there is an administrative settlement, oftentimes those are discussed but not subject to public comment.

Mr. WALDEN. But they could be made public.

Ms. JACKSON. Well, I do not know that, sir, but I do think that the agency needs to preserve its right to discuss whether it is industry or an environmental group. We get sued by State and local governments as well. We need to preserve our right to enter into discussions to try to avoid court costs.

Mr. WALDEN. No, I don't think anybody disagrees with that. It is just when I think the taxpayers feel they may be shut out of any of that, and so you get a notice of intent to sue. They don't know that really happens unless you make it public.

Ms. JACKSON. Usually the group suing us does. They're the ones that initiate it.

Mr. WALDEN. Right, but not necessarily everybody else knows. That is why this thing with modern technology is putting it on the——

Ms. JACKSON. I don't see any concerns with putting notices that we receive up and I am happy to look into it.

Mr. WALDEN. I return my time.

Mr. WHITFIELD. Thank you.

At this time I recognize the gentleman from California, Mr. Waxman, for 5 minutes of questioning.

Mr. WAXMAN. Thank you, Mr. Chairman.

Administrator Jackson, the House Republicans have urged you not to issue pending proposed New Source Performance Standards under the Clean Air Act to reduce carbon pollution from new power plants. They argue that the regulations will hurt the economy and are not necessary. I could not disagree more strongly. Climate change is the greatest environmental threat we face. Although these standards will have a modest impact on the overall problem, they are critical as a first step in tackling carbon pollution. They will boost the economy by providing certainty to the power sector, allowing investment decisions to be made and new generation to be built.

Administrator Jackson, you are an engineer, a practical problem solver. Does it make any sense to pretend climate change isn't happening and hope we can deal with it later?

Ms. JACKSON. No, sir, it doesn't.

Mr. WAXMAN. Denying the science and the facts is, I think, indefensible and putting off action until later is utterly irresponsible. According to the highly regarded International Energy Agency, if the world doesn't change course on climate now, within just 10 years, we will have built enough high-carbon energy infrastructure to lock our planet into an irreversible and devastating amount of global warming.

Administrator Jackson, making smart choices when building new infrastructure is precisely what these regulations are all about. Isn't that right?

Ms. JACKSON. That is right, sir, and giving standards so people have certainty. That is an important part of the regulatory process.

Mr. WAXMAN. These New Source Performance Standards would set limits for carbon pollution that would apply when we invest billions of dollars in new power plants that would be around for half a century or more. That seems to be common sense. The reality is that the market is already driving these choices. The development of huge low-cost natural gas supplies plus uncertainty about inevitable future carbon control requirements is deterring investments in new coal plants without carbon controls, but we are hearing the same old claims that EPA's proposed regulations would drive up energy prices and destroy the U.S. economy. That is what Republicans said in 2010 about the requirements for Clean Air Act new source review permits for carbon pollution.

Administrator Jackson, the carbon pollution permitting requirements have been in place for over a year now. Is there any evidence that they are harming the economy?

Ms. JACKSON. None, sir, not that I am aware of, certainly. I believe people are getting permits and applying for them and moving forward. In certain jurisdictions EPA is processing those permits.

Mr. WAXMAN. In fact, these requirements are encouraging new sources to be more energy efficient in a cost-effective manner, and I think that is going to be good for the economy overall.

Every week, we see new published scientific studies finding that climate change is already occurring, finding new threats to ecosystems, food supplies and human health from a rapidly warming planet. Finding the time to avoid a disastrous degree of warming is rapidly running out and yet this Republican Congress does worse than fiddling while Rome burns; they are actually trying to stop anyone else from fighting the fire, and I want to commend your efforts to fight this fire and I urge you to take the critical steps of issuing carbon pollution standards from power plant as soon as possible.

Administrator Jackson, EPA is responsible for protecting our air, our water, our land. In the next fiscal year, the Administration is proposing to achieve its mission with a meager one-quarter of 1 percent of the Federal budget. This equals 81 percent of the agency's fiscal year 2010 budget, 56 percent of the agency's fiscal year 2009 budget. Clearly, the President is proposing a funding level that the agency has to make difficult choices, cut funding for valuable programs and start funding priority goals. I would like to ask you about some of these tough choices.

In the 2013 budget, we have significant cuts to the drinking water program. Just yesterday, the American Water Works Association released a new assessment of the state of drinking water infrastructure in this country, and they said in this report our drinking water infrastructure needs a $1 trillion investment over the next 25 years if we are to maintain current levels of water service. The AWWA concludes that "The more we delay, the harder the job will be done."

Administrator Jackson, has the agency determined that funding drinking water infrastructure is no longer important?

Ms. JACKSON. Certainly not, sir.

Mr. WAXMAN. Does EPA still believe that State revolving loan funds are important tools for delivering safe drinking water and protecting public health?

Ms. JACKSON. Certainly, sir.

Mr. WAXMAN. I have other questions along these lines about Superfund and radon programs and others but my time is over. I would like to submit these questions to you in writing and get a response in writing.

Ms. JACKSON. Thank you, sir.

Mr. WAXMAN. Thank you, Mr. Chairman.

Mr. WHITFIELD. Thank you.

At this time I recognize the gentleman from Pennsylvania, Mr. Murphy, for 5 minutes of questions.

Mr. MURPHY. Thank you. I appreciate you being here, Administrator Jackson.

When you were here last year, and I had asked for a list of concerns with Pennsylvania's oil and gas production. I am disappointed I haven't heard back and I hope that that is something

you can still contact people with in your agency to be back in touch with us.

But since this time, Pennsylvania has also made some changes to regulations. I am not sure if you read Pennsylvania's Act 13, which just passed into law, so you may not have, but it contains a number of provisions in there including ways to handle violations. It has a requirement that unconventional well operations must have DEP-approved water management plans for water withdrawals and a whole host of other regulation changes that Governor Corbett signed into law. Now, I would ask, as I don't know if you actually had a chance to read that, I hope so, but what concerns me is I still would like to hear from you with regard to if anything remains for Pennsylvania. I won't put you on the spot right now, but if you could get back to me. Would you be able to do that?

Ms. JACKSON. We are happy to. Just keep in mind, sir, we are in the middle of a 2-year study that is specifically to look at the impact of fracking on drinking water, and so what I have said is anything we learn from that study, the first audience will be the States because they are really on the front lines of trying to protect their people and regulate these industries to keep them safe and responsible.

Mr. MURPHY. I appreciate that. Well, given that you are still in the middle of a study, a February article in the Pittsburgh Post Gazette, your agency said you began a multimedia investigation of air and water hazards, material impacts which you had not previously acknowledged. In late September when onsite testing was done, and according to the paper it said you were in the "initial stage of possible enforcement actions," so I am concerned about a couple of things. So you are in the middle of enforcement actions but you have not yet completed a study, and I also question, is there a statute that gives the EPA authority to regulate oil and gas production or is it water and air? I am confused here.

Ms. JACKSON. Certain aspects of production are regulated under a number of statutes, whether it is the Clean Air Act, the Clean Water Act, general duty clause under the Clean Air Act. There is spill prevention and containment regulations that are separate, so there a number of statutes. I cannot comment on the validity of——

Mr. MURPHY. But not specifically to gas production? You are saying it has to do with the water on site or the air on site?

Ms. JACKSON. It has to do with the environmental impacts of certain operations that might be associated with the drilling, but the actual drilling and, as you know, the actual injection of fracking fluid are not—are generally exempt from many of the major——

Mr. MURPHY. As you go through this, do you have petroleum engineers working on this study for you and reviewing these things in Pennsylvania?

Ms. JACKSON. Yes, sir. The study and its scope was peer-reviewed. We put together panels. We had public meetings.

Mr. MURPHY. I am aware of that. I am just wondering if you have on your own employed petroleum engineers who have some expertise in this area.

Ms. JACKSON. We can certainly get you the list of folks, but the study is being done by our Office of Research and Development, so I believe there are engineers of all types involved in the study.

Mr. MURPHY. I would appreciate knowing that.

As you know, in fiscal year 2010, Congress directed the EPA to carry out a study on the relationship between hydraulic fracking and drinking water using a credible approach that relies on the best available science with independent sources. Now, I have been looking at your fiscal year 2013 budget, and you want an additional $14 million to expand the scope of your study to cover potential ecosystem issues. Now, on this study you spent $1.9 million in fiscal year 2010, $2.5 million in fiscal year 2011, $9.7 million in 2012. In 2013, you want to spend another $14 million. It puts the cost of this whole study at $28.1 million and expand it beyond the original scope.

I want to comment here. A recent study in Pavilion, Wyoming, linked groundwater contamination to a well site that used hydraulic fracturing but there has been a number of scientific concerns among them on that. Among them have to do with the pH level of the water involved there. Are you familiar with that question about the pH values in that study?

Ms. JACKSON. Generally.

Mr. MURPHY. There wasn't going to be math today, so don't worry.

Ms. JACKSON. W?

Mr. MURPHY. I said there are no math questions involved. But one of the issues here has to do—and I would appreciate you getting back to me on this. But I understand in the case of drilling, there were some test wells drilled. This was not the actual water wells but they were test wells drilled by EPA and so it wasn't actually testing the water there but there was concern about a high recorded pH level of 11.5 in these monitoring wells. But the soda ash that is used in the drilling has a very high pH level of 11.5, and I wonder also if you can get back to us if you are not aware today if even the process of drilling your monitoring wells, if chemicals were added in that process which may have influenced that.

Ms. JACKSON. Yes, sir, I am happy to. Two things. As far as the study, it really is an expansion of the Congressionally mandated study. We are going to include additional scientific questions, working with USGS, with the Department of Energy. That is our response to the President's call that we not shy away from investing in good science. We believe that will make the natural gas industry more robust if we look to answer these questions.

As far as Pavilion, I have spoken to the Governor several times. We have agreed to review and move forward together on additional investigation. Certainly, the use of some caustics like soda ash could raise pH but we believe that when you look at the blanks and duplicate samples that our work is valid, but we are also agreeing to move forward collaborative to take additional samples.

Mr. MURPHY. I yield back. Thank you.

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

At this time I recognize the gentlelady from California, Ms. Capps, for 5 minutes.

Mrs. CAPPS. Thank you, Mr. Chairman, and thank you for your testimony, Administrator Jackson.

I want to begin with a brief comment. I was disappointed with the decision to eliminate BEACH Act grants, and I find EPA's justification absurd. Without funding, county environmental health officials will have to drop testing. In San Luis Obispo County, we have seen 11 occasions when conditions were so bad that officials closed a stretch of shoreline to all contact. The possibility of cutbacks is not good news. We can't assume local jurisdictions will be able to replace lost grant funding. EPA needs to partner with our local communities, not leave them out to dry.

Now onto questions. Last year when you appeared before us to discuss the Administration's 2012 budget request, you noted that adaptation to changing hydrological conditions is, and I quote, "a significant issue faced by the Nation's drinking water and wastewater utilities." Unfortunately, the cost of these adaptation needs is not currently included in EPA's infrastructure replacement cost estimates for water and wastewater systems, and since that time, EPA's budget has further experienced cuts but data continues to accumulate demonstrating the scope of adaptation challenges faced by water systems. For example, a report recently released by the Johnson Foundation at Wingspread, American Rivers and Ceres concluded that our Nation's drinking and wastewater infrastructure is not prepared to deal with extreme weather events including persistent drought, shifting precipitation patterns and declining snow pack. More frequent occurrences of these events will strain water systems to previously unknown levels and impose drastic costs on local communities across the country.

However, since last year I have taken steps to address this issue by introducing the Water Infrastructure Resiliency and Sustainability Act. This legislation would offer competitive matching grants to help local water systems build their resiliency to these changing hydrological conditions and I am pleased that this legislation enjoys wide support in the water utility community. My question, given these well-documented challenges facing the Nation's water and wastewater systems, do you think this type of cooperative approach to promoting infrastructure adaptation and resiliency among Federal, State and local stakeholders can become an effective first step to address this issue?

Ms. JACKSON. Thank you, Ms. Capps. Although I can't speak on the specifics of that legislation, I think that you bring up a good point. Adaptation and the issues it is going to mean for our infrastructure are significant and are going to require a collaborative approach in terms of engineers as well as folks who are interested in providing water but also folks who are interested in lowering costs and in community and public health protection.

Mrs. CAPPS. And is there a structure within the budget to deal with this?

Ms. JACKSON. I don't believe so. I don't believe we have anything in the current budget.

Mrs. CAPPS. So we will have to be innovative in figuring out ways to be cooperative in this area.

Ms. JACKSON. We are happy to work with your staff.

Mrs. CAPPS. I would be happy to do that to.

I want to turn to your work in advancing the Sustainable Communities Initiative, which is something I commend, and I was pleased to see the President again made this important initiative a priority in this budget. This funding helps empower local communities to plan more sustainable communities with more housing and transportation choices so that families can live close to where they work, shop and go to school. This dramatically reduces commuting times, which is not only good for economic growth but also for energy independence. Do you see this type of sustainable development as an effective way for communities to help insulate themselves even from the rising gas prices?

Ms. JACKSON. Yes. As communities choose, and it is a voluntary program, but for those communities who are choosing to look at those issues of transportation, energy, water and efficiency and environment all together, they are finding win-win solutions.

Mrs. CAPPS. And are there some examples just for the record of how this type of development impacts a community's energy independence?

Ms. JACKSON. Oh, absolutely. You know, it can be a large city like Philadelphia where we are working with them. I should probably pick one in California. I apologize.

Mrs. CAPPS. That is OK.

Ms. JACKSON. But they are in my mind because of a previous question. Or it can be a smaller community or even a rural community who are looking at issues associated with development or potential new development as their economy improves and making choices about locations, transit, roads, siting that would help them be more sustainable over time by cutting their energy use and their carbon footprint.

Mrs. CAPPS. So as communities are anticipating this kind of planning and development, you offer yourselves as partners available to be in consultation with them as they make these changes?

Ms. JACKSON. Yes. It is HUD and DOT and EPA, and the technical assistance we can provide along with some meager financial assistance, but of course, HUD and DOT in their road planning efforts can be of great assistance and sometimes funding to help these communities maximize increasingly limited dollars.

Mrs. CAPPS. Thank you very much. I look forward to working with you on this.

Mr. WHITFIELD. Thank you.

I would like to remind everyone again that we still don't have a clock but we do have the lights and just periodically look if their red light is going and your time is up.

At this time I would like to recognize the gentleman from Texas, Mr. Burgess, for 5 minutes.

Mr. BURGESS. Thank you, Mr. Chairman, and thank you, Administrator Jackson, for being here again.

I have got a number of things I want to get through. If I don't get to them all, I will submit questions for the record. I would appreciate a response. We are still waiting on some responses from your last trip here.

But we hear from your agency, from yourself, from Gina McCarthy in your agency how you care so much about people in this country with asthma, and as an asthmatic, I appreciate that concern,

but I have to tell you, I mean, the EPA is the one Federal agency that is standing between a lot of asthmatics and an over-the-counter asthma treatment, Primatene Mist, that has been available for forever. I get the fact that the Food and Drug Administration plays a role in the approval of the new HFA propellant in Primatene. I get that. But your agency has the ability to provide a waiver so that the existing stock of CFC-containing Primatene Mist could be sold to asthma patients in this country, and it is not a small issue.

The prescription HFA-containing compound costs about three times what the over-the-counter CFC propellant Primatene costs, but the big issue is availability. If you get in trouble in the middle of the night and you don't have a prescription, you have to go to the emergency room, and that really costs patients. So I am just asking, will you grant a waiver so the existing stock of Primatene containing CFC can be sold? It is a yes or no question.

Ms. JACKSON. No, sir, we have not granted the waiver.

Mr. BURGESS. Will you? Will you grant a waiver so that asthma patients in this country who depend upon this product can at least have the availability of the stuff that is already made? It is in warehouses and something is going to happen to it at some point. The CFC is not going to stay bottled up forever. Could you not just make that available to patients in this country?

Ms. JACKSON. Sir, I am happy to look into but I will not answer yes or no. In 2008, the FDA set out a rule letting folks know, including the makers of Primatene Mist, that they needed to phase out of the CFC.

Mr. BURGESS. I have to tell you, I am so frustrated with the circuitous nature of this. It goes back and forth between your agency and the FDA. I am just asking for some help here for the patients who are asthma sufferers in this country. You have the ability to provide that help.

Ms. JACKSON. There are 19 safe and effective asthma treatment alternatives, though, sir, 19.

Mr. BURGESS. Let us move on. I have some questions about Title 42. You know, you and I have talked about this in the past. Now, are you aware that the Government Accountability Office has recently put out a study and HHS has put out some new guidelines on advisory on Title 42? Are you aware of that GAO work in progress?

Ms. JACKSON. I have not seen it personally, sir, but thank you.

Mr. BURGESS. Well, they have put out some advisories, and they have asked that there be a cap placed on Title 42 positions in their agency. Have you discussed this with anyone at HHS?

Ms. JACKSON. I have not personally. I did when I became Administrator asked to understand our Title 42 hiring process. Congress had raised it as an issue. In fiscal year 2011, I believe we had 17 and hired a total of five more.

Mr. BURGESS. And these are designed to be temporary employees. Are they temporary employees on your balance sheet?

Ms. JACKSON. I believe that they are designed to meet certain needs. We have them mainly as heads of our national labs. Those national centers are state-of-the-art research and oftentimes we are looking for people with very specialized skills——

Mr. BURGESS. But by definition, these are designed to be time-limited and HHS has now agreed to a cap on Title 42 employees. Are you looking at providing a similar sort of cap in your agency?

Ms. JACKSON. We don't have a tremendous number of Title 42 employees, and I am happy to provide the justification to you, Mr. Burgess.

Mr. BURGESS. Well, I have been waiting again on some of those questions that we submitted last time, and I will resubmit some today and I am looking forward to that. Since we have the CFO with you today——

Ms. JACKSON. I am sorry. We have authority for 30 positions, so we do have a cap, Dr. Burgess. I am sorry. And so we are using 17 out of the 30, which is our cap.

Mr. BURGESS. And are you going to adhere to the fact that those are to be temporary and time-limited positions?

Ms. JACKSON. I will look into the issue, sir. I will not concede it.

Mr. BURGESS. Clearly, Mr. Chairman, this is the reason why this authorization committee needs to take a greater role in the oversight of the money spent by the Environmental Protection Agency.

Ms. Bennett was kind enough to be here and talk to some of the issues related to line items in the EPA spending last year. I am so glad that she is here today. Last October, I think we had a hearing here and there was concern because of unobligated funds that were sitting in the EPA's bank account. Just purely as an example, we had—I think we had $15.6 billion and we have been provided a little bit of granularity from the Office of Management and Budget on this, but are you going to provide us detail on what you are doing to unwind those unobligated funds? I mean, you are asking for the same amount of money you got last year and yet the American people look at your budget and see this money just sitting in limbo in your account and it is hard to justify expending the same amount of money when you have got money sitting there.

Ms. JACKSON. Yes, the vast majority of those unexpended funds, the majority of them are in Superfund balances. They are construction funds. And as you know, when you run a construction account, you have to have the money in place so you can bid the job, complete the job, and you don't always expend it or obligate it on a precise fiscal year.

Mr. BURGESS. Some are in Superfund but not all, and again——

Mr. RUSH. Point of order, Mr. Chairman.

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

At this time I recognize the gentleman from Massachusetts, Mr. Markey, for 5 minutes of questions.

Mr. MARKEY. Thank you, Mr. Chairman.

A little bit of history. Back in 1995, Newt Gingrich took over as Speaker. The first thing the Republicans did was attach a rider to the budget each year prohibiting an increase in fuel economy standards, prohibiting it, 1995, 1996, 1997, 1998, 1999, year after year. Then George Bush took over as President and they did not add the rider anymore because Bush wasn't going to do it anyway, and so we go all the way to 2007 and you have a case, Massachusetts versus the EPA, and you have my language, which is going to increase fuel economy standards to 35 miles to the gallon within this decade and then increase it dramatically beyond, which gives

the joint authority to EPA and NHTSA to now announce that the new standard is 54.5 miles per gallon for our country by 2056, which by the year 2030 will back out 3.4 million barrels of oil a day. We are in a mess because the Republicans were prohibiting that increase from 1995 until after they finally lost the Congress, and if they had not prohibited it but put stronger standards on the books, we would be telling Iran right now, would be telling the Saudi Arabians, we don't need their oil any more than we need their sand, but they prohibited it.

So they get back in power again. It is 2011. What is the first thing they do? They pass legislation through this committee on the House Floor stripping EPA of their authority to look at increases in the efficiency of the vehicles that we drive, of the boats, of the planes, of the trains, of everything. They go right back to business as usual digging this hole, violation of the first law of holes, which is, when you are in one, stop digging. So that the mess, the mess, the technological mess that the Republicans have put us into historically.

Then we say we have a Strategic Petroleum Reserve. Let us start to deploy it so we can tell Iran as they are holding this oil weapon over our head, you know, that we mean business and we are going to be tough going back at you, they say, oh, don't deploy the Strategic Petroleum Reserve. Then they want to pass the Keystone pipeline bill, and I bring out my amendment on the House Floor and say, well, that oil has to stay in the United States, and they go, oh, no, it doesn't have to stay in the United States. Then we have a vote out on the House Floor 2 weeks ago that says that they can drill, the oil companies, off the coast of New England, Florida, California. And so I have an amendment that says if we have got oil and natural gas, it has to stay inside of the United States, and all the Republicans vote no, it doesn't have to stay in the United States, it can go overseas. This is a dream scenario for Saudi Arabia, for Iran, for these countries. It is a dream. It is beautiful for the American Petroleum Institute, but it is something that placates Iran, you know, in terms of what the message is we are sending in terms of the amount of oil that we are going to say we don't need from them anymore.

So let me ask this of you: what would that mean if there was a repeal, Madam Administrator, of your authority to look at how to increase the efficiency of the vehicles which we drive in the United States?

Ms. JACKSON. Our estimate of the savings of oil because of the National Clean Cars program is 12 billion barrels, Mr. Markey.

Mr. MARKEY. And what would happen to—what is the total per day? What does that translate into in terms of per-day consumption of oil in the United States?

Ms. JACKSON. I actually don't have that number right in front of me, sir, but we know that one of the reasons that we are at the lowest level of imports in recent history is because of the efficiencies of these automobiles. The Energy Information Administration assumes that our use of oil will——

Mr. MARKEY. The average consumer today has to spend about 7 percent of their income on gasoline. Now, if the tough standards stay on the books, the increased efficiency, there is a dramatic re-

duction in the amount of oil that people have to purchase to put into their gasoline tanks in the years ahead, and that is a big tax break for ordinary consumers if they have to purchase less gasoline at the tank because of the increased efficiency in the vehicles which they drive. What would this do in terms of your ability to be able to protect those consumers from that dramatically higher oil price that they would have to pay?

Ms. JACKSON. Without a national standard, we would lose the benefits. We assume those to be $1.7 trillion over the life of the program.

Mr. MARKEY. So from the perspective of this debate, the Republicans want to keep the oil tax breaks, $4 billion a year, on the books for oil companies, even though they made $137 billion last year, and you can put an infinity sign next to what the oil companies are going to make this year, but those tax breaks stay on the books. They are advocating an expiration of the tax breaks for the wind industry this year, which is going to lead to its collapse, and it is all part of an ongoing profile that basically is a rearview mirror view of how powerful America can be technologically in telling Saudi Arabia and OPEC we don't need their oil anymore.

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

Mr. MARKEY. Thank you.

Mr. WHITFIELD. At this time I recognize the gentleman from California, Mr. Bilbray, for 5 minutes of questions.

Mr. BILBRAY. Thank you, Mr. Chairman.

Quickly, the gentleman from Massachusetts was giving us a history lesson. I would like to remind him in 1995, I introduced a bill that was to eliminate the mandate that ethanol had to be in the fuel stream, and his own State of Massachusetts supported the California reformulated gasoline as cheaper and cleaner than the Federal mandate. Every member of the California delegation, every member supported that legislation except for the ranking member of this committee because the deals that were cut in Washington were more important than energy independence or about clean air.

But going back to what is the percentage of the CAFE standard increase have we mandated in the last few years?

Ms. JACKSON. Well, we doubled the fuel economy under President Obama.

Mr. BILBRAY. In what period of time?

Ms. JACKSON. Well, it will be between 2012 and 2025 model year.

Mr. BILBRAY. How much in your budget today, how much is committed to requiring governments to do more traffic management and fuel efficiency through traffic control?

Ms. JACKSON. We don't have any requirements on traffic control.

Mr. BILBRAY. So in other words, it is easy for those of us in government to point fingers at the private sector and say you have to make your cars more fuel efficient and we have studies coming out of places like University and Kansas that shows 22.6 percent of all emissions and fuel consumption is inappropriate traffic control, stop signs that could be yield signs, roundabouts that would replace stop signs and traffic control. But in your budget, you are walking away from the opportunity of reducing fuel consumption and pollution by 22.6 percent because we are focused on mandate on the private sector but not asking those of us in our fellow gov-

ernment agencies to clean up our act and stop requiring consumers to stop every two blocks because we just find it easier to do that. I mean, my God, ma'am, you can't even get the blinking lights in Congress out here to be turned to amber behind this building. You have to go stop sign just because it is easier for government to say no, you have to stop here rather than being intelligent.

Now, don't you think, Administrator, especially coming from your local government background, that isn't it time we asked government to start participating in the answer? Isn't it time that we start requiring the local government and the States and the counties to start looking at how we are doing business and start changing the way we are doing it and going to smart traffic management as much as requiring the private sector to go to smart cars?

Ms. JACKSON. But I think, Mr. Bilbray, that is happening. In the Recovery Act, I have spoken to——

Mr. BILBRAY. Wait a minute. You think it is happening voluntarily?

Ms. JACKSON. It is happening because local governments are looking at their energy impact and using investments like in the Recovery Act to make investments in smart——

Mr. BILBRAY. Ma'am, I am going to stop you right there. A city council member pointed out, he said there is no financial reason for our city to do that. Give us a financial incentive, pay us to do this. And all I am saying is, we pay the auto industries to go to a more fuel efficient standard or did we tell them they have to reduce their emissions and their fuel consumption. And if we do that with the private sector, then damn it, then why do we hold cities, counties and Federal Government immune from it? Why don't we set the same standards for those of us in government that we are setting on our private sector, and how can you say that we are doing everything we can to have fuel efficiency and clean air when we allow the government to take a free ride on this one?

Ms. JACKSON. Sir, I would you refer to the Department of Transportation, who I think in their smart transportation and planning do encourage local governments to put in place ordinances and smart traffic controls.

Mr. BILBRAY. Administrator, I have administered the Clean Air Act just like you have. You know in non-attainment areas, isn't it true that when you allow one group in a non-attainment area to pollute, somebody has to offset it, right?

Ms. JACKSON. A new source has to offset its emissions.

Mr. BILBRAY. I am saying when government is allowed to force cars to pollute, usually it is the stationary sources that take the biggest hit because they are the easiest to regulate, aren't they?

Ms. JACKSON. No, sir. I think that——

Mr. BILBRAY. Are you trying to tell me that mobile sources are as easy to regulate as stationary sources?

Ms. JACKSON. Well, we just did. I mean, the National Clean Car Standards are regulation of mobile sources: light-duty vehicles, heavy-duty——

Mr. BILBRAY. Ma'am, you were in Connecticut, weren't you? Didn't you do the air strategies?

Ms. JACKSON. I was in New Jersey, sir.

Mr. BILBRAY. New Jersey. Excuse me. All those little States get mixed up for us out in the West.

Ms. JACKSON. You have a big one, sir. Sure.

Mr. BILBRAY. You know, I am sorry, I am just telling you, I just can't believe anybody that has done air regulation could say that mobile sources are as easy. All I am saying is, we still have a major source of pollution, and it is government. When will we finally, Democrats and Republicans, come together and say we need to lead through example, not point fingers at everybody else? We are talking about spending taxpayers' money but we are not willing to change regulations that government is operating. Rather than throwing money at the problem, why aren't we getting smarter as government to reduce the emissions and extend the fuel efficiency in our operations? Why can't we do that much? The cities and counties have too much control?

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

Ms. JACKSON. Well, they are balancing safety considerations, sir. You know, the traffic signals and stop signs are for safety and they are balancing their needs to ensure public safety.

Mr. BILBRAY. Excuse me. I heard that about——

Mr. RUSH. Point of order, Mr. Chairman.

Mr. BILBRAY. Excuse me. I heard that about cars——

Mr. RUSH. Point of order, Mr. Chairman.

Mr. BILBRAY [continuing]. The fact that safety meant you had to be fuel efficient.

Mr. RUSH. Regular order.

Mr. WHITFIELD. Let me just say that I am trying to be fair as chairman. We don't have a clock. I have let some people on your side go a minute and a half over. Some of this side have gone a minute or so over. So we are just trying to be as fair as we can be.

At this time I would like to recognize the gentleman from North Carolina, Mr. Butterfield, for 5 minutes of questions.

Mr. BUTTERFIELD. Let me thank you, Mr. Chairman, and thank you for your evenhanded leadership of this subcommittee. When I was a trial judge for 15 years back in North Carolina after a session of cross-examination like this, I would simply tell everybody just to take a deep breath and count to 10, so I am certainly going to do that and ask others to do the same.

Let me thank you, Administrator, for coming forward today with your budget and thank you for all that you do for our country. As the President has said now for years and I am sure that he tells all of you this every day, that we have got to make some tough choices. We have got to make tough choices in our budgets, and clearly today you have given us a budget that in my opinion seeks to protect our communities and promote sound science and so I support your efforts and I believe in what you are doing, to say the least.

However, on a brief note, I am a little concerned about the impact to critical infrastructure that will be caused by the proposed cut of $359 million from State revolving funds. The Drinking Water State Revolving Fund, Mr. Waxman spoke to that earlier, has provided States with the authority to give extra assistance in the form of extended loan terms and lower interest rates or principle forgive-

ness to disadvantaged communities, and I live in a disadvantaged community and you know that very well.

Because of that, the SRF has been essential source of financing for small and disadvantaged community water systems that are unable to finance infrastructure projects at market rates, but until the passage of the Recovery Act, States had complete discretion to decide whether to exercise their authority and provide disadvantaged communities with such assistance. Fourteen States have decided not to provide the assistance. An additional six States reserve less than 4 percent of their funds over the life of the program for these disadvantaged communities. Recovery Act funding of the SRF made a significant difference for millions of Americans, and you know that record very well. In fact, according to EPA, Recovery Act funds provided through the Drinking Water SRF brought 693 drinking water systems serving over 48 million Americans back into compliance with the Safe Drinking Water standards. Forty-eight million Americans got safer water. And at the same time, good-paying construction jobs were created. There is still a significant need for this funding to improve drinking water quality and spur job growth. These cuts will be hard on all water systems but particularly small and underserved communities who need the funding the most.

Question: The budget in brief express the intent of the Administration to target SRF assistance to small and underserved communities. How will you do that?

Ms. JACKSON. It will require us to work with the States, as you know, Mr. Butterfield, and thank you for your comments. I agree that the Recovery Act changed the world for certain communities and we don't have the same legal authority to direct money. It goes to the States. So we will have to work through the States to change the prioritization system. We will do that collaboratively, but in a time of decreasing resources, we have to look at the systems which really could not through rate increases or any other way finance these infrastructure improvements.

Mr. BUTTERFIELD. In the last Congress, this committee passed bipartisan legislation to reauthorize the SRF. That legislation would have required States to provide some additional assistance to disadvantaged communities. Unfortunately, that bill did not become law. States once again have discretion to choose not to provide special assistance to small and rural systems and cuts in SRF funding may discourage States from providing that assistance because returns on loans made by State funds will become more important.

Second question. Do you foresee these cuts to the SRF having an impact on the amount of assistance States make available to small and underserved communities?

Ms. JACKSON. It likely will, sir. In all honesty, they are revolving funds so the amount that a State has available in any given year depends on what loans are repaid so from, you know, how much of the principle they are getting back. But less money we believe will potentially impact their ability to make these loans and/or grants.

Mr. BUTTERFIELD. All right, Mr. Chairman, I see the amber light on. I suppose means that we are winding down, so I am going to yield back the remainder of my time.

Mr. WHITFIELD. Thank you, Mr. Butterfield.

At this time I recognize the gentleman from Ohio, Mr. Latta, for 5 minutes of questions.

Mr. LATTA. Well, thank you, Mr. Chairman, and Administrator, thanks for being with us today.

I would like to talk about ozone for a little bit here. In your fiscal year 2013 budget when you are looking down the road, do you intend to propose revisions to the National Ambient Air Quality Standards for Ozone, and if not in 2013, what is the EPA's current schedule?

Ms. JACKSON. The current schedule, sir, is to make a proposal in calendar year 2013. It will probably be towards the end of the calendar year so I believe that is fiscal year 2014.

Mr. LATTA. Let me ask this then. Does the EPA expect to propose a rule that is similar to the rule that was withdrawn last year?

Ms. JACKSON. I can't speak to what we will do in the end of 2013. We are waiting on the science. As you know, we have to wait for a scientific review.

Mr. LATTA. Well, because it is very, very important because, you know, with the rule that was proposed last year that was withdrawn, you know, the estimated costs out there are between $19 billion to $90 billion annually. In a State like Ohio, we would have had a great number of counties go into noncompliance. So when are you considering these standards, it is very, very important to people like me who represent 55,000 manufacturing jobs, which is the largest in the State, and by coincidence, the largest number of manufacturing jobs on this committee. You know, we have to have some kind of an idea what that sticker price will be out there, especially because when I am home, one of the things I hear from my constituents is what is happening here, especially with the EPA, is the number-one driver of the cost to them back home. But you have no idea where you are going to be going with that?

Ms. JACKSON. Yes, I can't speak to it. I can say that it is proposed, we take public comment on it, so there will be ample opportunity for folks to see it, comment and offer——

Mr. LATTA. Let me just switch gears a little bit then. You know, in looking at your budget, it says here that you plan on spending about another $830 million more in enforcing environmental laws. That raises a couple questions. One is, where does the money go that the EPA collects in fines?

Ms. JACKSON. Fine money goes into the Treasury, sir.

Mr. LATTA. It goes right back to the Treasury? OK.

Let me go back to where Dr. Burgess was, if I could, going back into the question about release of deobligated funds, and I assume that you as you are here today that, you know, it is for our benefit, your benefit, there is this total transparency in the budget planning and that we need to have the EPA and your plans and your spending. The GAO testified before this committee that EPA receives a sizable amount of funds that has deobligated from past years but does report this reuse in its budget justifications. In 2010, the unreported reuse of funds amounted to $160 million more than EPA's spending cuts proposed this year. At present, since the EPA is not reporting how much money it plans to deobligate and

reuse next year, were you aware that the EPA is not reporting this information?

Ms. JACKSON. I am sorry, sir. I was trying to get background. Please forgive me. We do report our deobligations in our financial statements, so I am happy to take a look at the issue, but when we deobligate money, obviously we are reporting that.

Mr. LATTA. OK. Well, because again, what the GAO was telling us is that, you know, especially with the release of these funds being reported to Congress, EPA budget justifications, that we need to—you know, that is supposed to be reported. So if you could get back to us on that in written comment, I would really appreciate that.

Ms. JACKSON. Yes, sir. I believe they are reported in our financial reports but we will be happy to get back to you.

Mr. LATTA. OK. Switching gears real quick here, because I see the clock is on, I am trying to be cognizant and helpful to the chairman——

Mr. WHITFIELD. The yellow light comes on when you have a minute left.

Mr. LATTA. I understand that. Time is running down. Do you know how much of the money that is grant money for States that have not yet been distributed? Any idea on that?

Ms. JACKSON. There are large unobligated balances and unliquidated balances. They are two different things in the State Revolving Funds. The States, we give them money once a year, I think on time to the States, but then how quickly they draw that money down is a different question, so that's a large balance.

Mr. LATTA. And real briefly, do you have any idea how much money was budgeted for State grants?

Ms. JACKSON. Well, there is a number of grants. The State Revolving Funds are about $2 billion. We have the categorical grants, which are $1.2 billion. About 40 percent of our budget goes to State and tribal grants.

Mr. LATTA. Thank you very much, Mr. Chairman. My time is expired and I yield back.

Mr. WHITFIELD. Thank you.

At this time I recognize the gentlelady from Colorado, Ms. DeGette, for 5 minutes.

Ms. DEGETTE. Thank you so much, Mr. Chairman, and Administrator Jackson, thank you for coming here today to talk to us.

As you know, there been a little discussion about this, we have had great advances in horizontal drilling and hydraulic fracturing over the last few years, which have enabled us to have oil and gas production in many, many new areas of the United States, and as a consequence, many of us have been hearing from our constituents about issues like impacts on the air, water and soil quality of hydraulic fracturing and they want to know whether the local and Federal laws and regulations are sufficient to protect their families. And so I want to focus my questioning on the funds proposed in the EPA's fiscal year 2013 budget for understanding and minimizing potential environmental health and safety impacts of this really promising shale gas development. So if you can keep your answers brief, I would appreciate it. I have got a lot of questions.

The first question is, do we know for certain whether or not shale gas development through hydraulic fracturing poses an increased risk to human health or the environment over the risks associated with conventional oil and gas development?

Ms. JACKSON. Not for certain. That is why we are doing the studies.

Ms. DEGETTE. Thank you. Is it known for certain whether or not shale gas development through hydraulic fracturing poses no risk to the environment or health?

Ms. JACKSON. No, the same answer. That is why we are studying it.

Ms. DEGETTE. And so what you are doing, you referred to the study, an objective science-based understanding of the potential risks is really going to be the first step for Congress to figure out how we can develop unconventional shale gas resources. So last year, as you know, Congressman Hinchey and I requested the EPA to do a study to determine the potential impacts of hydraulic fracturing on drinking water. Now, due to the extent and complexity of these studies, the EPA established quality assurance plans to ensure the validity of the data. Is that correct?

Ms. JACKSON. That is correct.

Ms. DEGETTE. And the studies currently underway, as I understand, with the report on preliminary findings due at the end of this year and another one due in 2014. is that correct?

Ms. JACKSON. Correct.

Ms. DEGETTE. Now, under your new budget request, the current study will be expanded to address the broader environmental impact of hydraulic fracturing including ecological impacts as well as waste to minimize any negative impacts, not just the chemical composition of the fracking fluid. Is that right?

Ms. JACKSON. That is right. They may be separate studies but there will be additional studies.

Ms. DEGETTE. And you think that you need to do that as an agency to get an understanding as to the environmental impacts of hydraulic fracturing?

Ms. JACKSON. Air quality, water quality, ecosystem impacts are of concern.

Ms. DEGETTE. OK. And now, can you comment briefly on the scientific review process for the extended effort that you are talking about, Administrator Jackson?

Ms. JACKSON. Well, obviously we would be scooping it, and it is all contingent on getting the money in the budget, but we would work with the USGS, we would work with the Department of Energy to scope studies that are not redundant. They will do some as well. And we would look for the same level of rigor as what we are looking for——

Ms. DEGETTE. Thank you. Now, Mr. Murphy asked you about the cost of the study, and I want to get some clarification to those numbers. The EPA budget requests a total of $14 million dedicated to studying shale gas development through hydraulic fracturing. Is that correct?

Ms. JACKSON. That is correct.

Ms. DEGETTE. Now, of that, $6 million is dedicated to completing the reports promised for 2012 and 2014. Is that correct?

Ms. JACKSON. I believe that is correct as well.

Ms. DEGETTE. And then the $8 million increase will go towards what you just described, better understanding of the ecological effects of wastewater discharge and the potential impacts on air quality resulting from hydraulic fracturing. Is that correct?

Ms. JACKSON. That is correct.

Ms. DEGETTE. So I want to point out, the total funding of $14 million for the hydraulic fracturing studies comprises 0.169 percent of EPA's fiscal year 2013 budget. The $14 million is EPA's contribution to a coordinated $45 million effort between the EPA, the Department of Energy and the U.S. Geological Survey. Is that correct?

Ms. JACKSON. That is correct.

Ms. DEGETTE. Now, can you explain the benefits of coordinating the effort between the USGS and the DOE?

Ms. JACKSON. Well, we have overlapping responsibilities but we also don't want to be stovepiped. We want to ensure that we are only doing one study to address one issue so we are not doing redundant studies, and we also want to make sure we are looking at issues collaboratively. So we look across the field and are more universal in scope.

Ms. DEGETTE. Thank you.

Now, Mr. Chairman, with respect to hydraulic fracturing, this is something—we have all these new advances in the way that we are doing oil and gas exploration, and certainly for a State like Colorado, it can be very, very positive for domestic energy production and for our economy, but we really don't have a lot of data on the environmental effects of hydraulic fracturing because while the technique has been around for a long time, these new ways that they are doing it brand new. And so I really think that this study is important and I would just continue to urge you, Administrator Jackson, to make sure that the studies that the agency conducts are done with the highest degree of scientific standards and impartiality.

Thank you. I yield back.

Mr. WHITFIELD. At this time I recognize the gentleman from Mississippi, Mr. Harper, for 5 minutes of questions.

Mr. HARPER. Administrator Jackson, welcome, and good news, you are almost done. I think we are getting close. You have been very patient and I appreciate your attendance here and your insight as we look at this issues.

You know, one of the things that is very important to my State and my district certainly is the technical assistance grant program that Chairman Shimkus referred to earlier. I had filed a bill on that. Some of the language that is in there is of great importance to our State as we look at that and how it affects small communities, and what I want to do is make sure I think to follow up on what he said, which is to make sure that the criteria that are set forth by the EPA actually track that appropriations language and we are actually covering all those bases. So your agreement, as I understood it, would be to work with him, check with him on those issues to be sure?

Ms. JACKSON. This is on the rural water assistance——

Mr. HARPER. Yes.

Ms. JACKSON. Yes, sir.

Mr. HARPER. And I just want to make sure we take a double check at that criteria to make sure we are in compliance with that language.

Looking at this, and I believe this is a budget hearing, I know we talked about many other things, and we are glad to have you here too, Ms. Bennett, as we look at these figures. These are difficult times, as you know, and as we look at this, and I know you have discussed tough choices and things that have be done, but we look at the overall budget on this. It is difficult for people across the country to say that we have done all that we can on tough choices when the overall budget cut I am showing as only 1.2 percent. Is that the correct figure I am showing, that the budget for this year is $8.344 billion, which is $105 million below the 2012 figure? I want to make sure I am using the correct figures. Is that right?

Ms. JACKSON. Yes, sir, but I would be remiss if I didn't—you know, we took a 13 percent cut in 2011, 2.6 in 2012, so now this is the 1.8. You are correct.

Mr. HARPER. One point two.

Ms. JACKSON. Sorry, 1.2.

Mr. HARPER. I know we have approximately 17,000 employees. Has there been a reduction or increase in the EPA workforce?

Ms. JACKSON. It is essentially static. We have had small increases but we have had no—excuse me. My CFO tells me that we are down this year from 2012.

Mr. HARPER. Now, when we are looking—I know you are set up with 10 regions across the country. Have you looked or are you looking at ways to perhaps consolidate, redirect the mission to where you don't lose what you consider to be effective but you continually look at ways to save money?

Ms. JACKSON. Yes, sir, I can assure you, we have looked at ways to maximize and ensure that we remain effective. Each one of those regional offices deals with several States, and those relationships tend to be extremely important.

Mr. HARPER. You know, the environmental education grants, how much is in the budget for that? Are you able to tell me that?

Ms. JACKSON. So in the President's 2013 proposal, we have actually proposed to, I think, zero out environmental education grant funding. I can grab you the number.

Mr. HARPER. But you expect in this it is zeroed out? OK.

Ms. JACKSON. Yes, because many of the programs do education as a component of what they are doing already, and so those grants we are not proposing to furnish.

Mr. HARPER. You know, it is unfortunate sometimes when we come in here and when there is a discussion on issues, it seems to be particularly for some of my friends across the aisle that they want to in effect trash the other party, trash the Republicans. I think it is pretty clear that everybody in this room, Republicans and Democrats, all believe, you know, in taking care of the environment and we all want clean air and clean water. You would agree with that, wouldn't you?

Ms. JACKSON. I believe that the American people generally do. I have gone on record as saying that the voting record of this House

has been several votes led by the party that is in the majority right now against and to turn back environmental statutes.

Mr. HARPER. And of course, you believe that that is turning back some of the things that you believe in, but are you looking at what the cost is? I know you receive many letters from many business groups too that believe that we have gone—you know, that we are actually hurting the economy in the process.

Ms. JACKSON. Sir, when we do our regulatory work, we are careful to do analysis of cost, analysis of benefits, analysis of jobs we have had added in several cases to try to be sensitive to people's concerns about our rules but we also get as many letters from citizens who want to ensure that EPA is doing its job to keep the air clean and the water safe——

Mr. HARPER. Last quick question, yes or no, do you believe that the Keystone XL pipeline should be approved?

Ms. JACKSON. Oh, sir, that is not my jurisdiction. I don't have any personal belief.

Mr. HARPER. A good non-answer. Thank you.

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

At this time I recognize the gentleman from Washington State, Mr. Inslee, for 5 minutes.

Mr. INSLEE. Thank you, Madam Administrator. I wanted to first thank you for your work. I have a new granddaughter, a 3-week-old granddaughter, Zoe Inslee, and I don't think there is anybody in this town doing more to make sure that she has clean air to breathe and clean water to drink and swim in. I just want to thank you for your work. And I want to ask you a question about the RFS2 proposal in relationship to trying to get cellulosic biofuels into the market. I know this is something you have been wrestling with and I just wonder if you have any thoughts about how we could help the industry expedite the entry of those products into the market either by rulemaking or otherwise. Any thoughts about that?

Ms. JACKSON. Well, I do believe that EPA is through most of its required work on the Renewable Fuel Standard, setting the required volumes for various fuels from various feedstocks. We have also processed and I think are through reviewing a request to increase the amount of ethanol blended into gasoline, the E15 waiver. You know, the actual marketing of gasoline is beyond simply the scope of our agency. We have labels to ensure that people don't misfuel. There is lots of work happening at the U.S. Department of agriculture to encourage not only the current generation of biofuels but I know the Secretary, he and I have spoken many times about his plan. It is a comprehensive plan for the next generation of biofuels to keep that industry alive and well.

Mr. INSLEE. Thank you for your work.

Ms. JACKSON. Thank you, and congratulations.

Mr. INSLEE. Thank you.

Mr. WHITFIELD. At this time I would like to recognize the gentleman from West Virginia, Mr. McKinley, for 5 minutes of questions.

Mr. MCKINLEY. Thank you, Mr. Chairman, and Administrator, thank you very much. I am sure it has been grueling to go through 3 hours of this.

First question I have, if I maybe get through a couple quick questions with yes or no to the extent that we can. Have you ruled out regulating coal ash as a hazardous substance under subtitle C of RCRA?

Ms. JACKSON. We have not made a final rule, so that would have to be a no.

Mr. MCKINLEY. Second, with this notice of intent from Headwaters Resources in filing an action, and I guess some environmental groups are also doing the reverse, they are also taking an action against the EPA on some of the hazardous waste perhaps, can you give us for the record a commitment that you will take this into consideration if you were to settle that you will consider the fact that Headwaters has also put in a concern and that they will be included in the settlement?

Ms. JACKSON. I am not familiar with this letter, but this is on coal ash?

Mr. MCKINLEY. It was filed in your office on—it was addressed to you on February 9th and it was their notice that they want equal protection under this, so are you saying you will?

Ms. JACKSON. In our regulatory actions, in our rulemaking, we will look at all information presented to us. I think public comment period is closed. We now have a notice of data availability out, and I am aware that environmental groups are suing to try to get——

Mr. MCKINLEY. The third question is, the EPA is apparently in funding with Vanderbilt University and perhaps others this new LEAF environmental assessment framework program that they are doing down there. I can't find the amount in there. From what I understand, that may be an alternative to the TCLPs. So if you are looking at that, I would like to understand how much money you are putting into that.

Ms. JACKSON. We will get that for you, sir, don't worry.

Mr. MCKINLEY. OK. And then lastly, more importantly is a question. I don't know if you are familiar with this report that was presented, Indoor Air Quality, Indoor Air Pollution in California, 2005, a very authoritative document in which it points out much of the problems that we are dealing with air quality is indoor since we are spending approximately 90 percent of our time indoors. So when all the folks are talking about asthma attacks, premature deaths, heart attacks or whatever, I think very well could be traced back to conditions inside since they are spending 90 percent of their time indoors. But I don't see anything—I can't find in your budget a priority for where the EPA could be stepping up and really dealing with children in schools. Fifty-six million children are in classrooms every day and I don't see a prioritization in your budget for what you are spending in education and mitigation and labeling of products and others so you can help. If California is right, they are saying in their own report, it is costing the State of California $45 billion a year. Now, I don't know how the folks on the other side of the aisle keep arguing about all these. I don't know how they can differentiate between getting sick from indoors versus outdoors but it is a convenient thing to challenge us on.

But I am curious, what can we do on that? And especially given the fact that you are spending $28 million last year giving grants to foreign governments instead of using that to help educate our

States in ways to mitigate our indoor air quality problems. Can you help explain that?

Ms. JACKSON. I am happy to. The President's budget increases our children and sensitive populations by $3 million. It is not true that we gave $28 million to foreign governments in grants last year, and we have a program that works with school districts, many of them underfunded, to try to help them address issues of public health for children. Many of them are not mandatory so these are voluntary programs. Education is important as well as things like siting guidelines. We were asked to put forth school siting guidelines and other technical assistance to help with things from radon to asbestos. So that is in addition to partnering with States who are often working as well.

And I just have to remind us all that yes, indoor air quality is very important but outdoor air quality impacts indoor air quality quite significantly as well and so we look at air as a whole, not simply one versus the other.

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

Ms. Jackson, one thing that Mr. McKinley brought up and a number of people have brought up is the amount of grants that are given by EPA to foreign entities directly or indirectly. I would just ask that you all provide us with a list of those over the last 3 years.

At this time I recognize the gentleman from Virginia, Mr. Griffith, for 5 minutes.

Mr. GRIFFITH. Thank you, Mr. Chairman.

Ms. Jackson, today the D.C. Circuit is hearing oral argument in the greenhouse gas litigation and that involves the tailoring rule, and in your brief that has been filed on behalf of EPA, it indicates in that brief that there would be a need to hire 230,000 full-time employees, that there would need to an additional 81,000 PSD permits per year, 6 million Title V permits, and a cost to the EPA, on top of the current budget, $21 billion per year. I am looking at the brief where I got these numbers, and then the sentence right after the paragraphs that lay out these number says "Based on this analysis, EPA found that applying the literal statutory thresholds on January 2, 2011, would overwhelm the resources of permitting authorities and severely impair the functioning of the programs." You would agree with that assessment? Yes or no.

Ms. JACKSON. Yes, sir.

Mr. GRIFFITH. And that is why you all have defended the tailoring rule based on a theory of law that says if it is not practical, you don't have to do it. Isn't that correct?

Ms. JACKSON. No, sir. We say if the result is absurd or increases administrative burden where it really can't practically be implemented, then we were given relief. It is a rule designed to give relief.

Mr. GRIFFITH. But wouldn't you agree that the businesses of the United States of America find themselves when they are looking at Cement MACT, Boiler MACT, Utility MACT, that many of the businesses of the United States of America find themselves in exactly the same position that the EPA finds itself in on this case where you all have said the burdens are too great by our own rules to follow our rules, and don't you think that there ought to be a

tailoring act for the job creators of America to assist them in creating jobs for the hardworking taxpayers of America? Don't you agree that that would be good policy? Yes or no.

Ms. JACKSON. I don't agree with your premise, sir, so I can't agree.

Mr. GRIFFITH. So it is OK to have one standard for the EPA and another standard for——

Ms. JACKSON. No, sir, the standard is not for EPA in the tailoring rules.

Mr. GRIFFITH. All right. You know, I do get passionate about this because my people are losing jobs, and let me say this as well. When we were here earlier this year and Ms. Bennett was kind enough to be with us, she indicated that some of the money that had already been committed but had not yet been spent, some of which was more than 5 years old, was there because of various reasons, perhaps even other permitting requirements or other requirements by the EPA or other agencies, but she indicated some of those were more than 5 years old. I asked her at the time, well, why wouldn't you all back the ability to move the 5 years for businesses in America because they need that and that is in the Boiler MACT bill, H.R. 2250. She said at that time that was not her position to make a statement as to whether or not she was supporting the bill or not, so I ask you because I believe it is within your prerogative, why wouldn't you adopt and accept the fact that the businesses of America can't comply with the time requirements, even if we can argue about regulations. There are numerous businesses in this country that cannot meet the 3-year-plus-one standard currently in the code. Why have we seen nothing from the EPA that says OK, you know what, maybe we need a longer timeline to get these things accomplished?

Ms. JACKSON. Mr. Griffith, it is not true that you haven't seen anything. EPA is reconsidering the Boiler MACT rule to give greater clarity, to reduce the cost of compliance——

Mr. GRIFFITH. But ma'am, I am correct that EPA is not backing any legislation to change the time limit in the law. Isn't that correct?

Ms. JACKSON. That is correct, sir.

Mr. GRIFFITH. Thank you. Let me talk about another subject briefly. You have, I believe and you would agree that you would feel that the EPA is doing a better job today than it did, say, in 2001?

Ms. JACKSON. I don't have any feeling on the subject, sir. I believe we are doing a good job today.

Mr. GRIFFITH. All right. Because I look at these, I have a chart here that says that you all have about 1,000 less employees now than you had then, and I am wondering if there was ever a study done to show where there is a, it happens in many cases, a diminishing return on investment or at some point you just get too many folks and you can't be as efficient. I am wondering if any study has been done at the EPA of exactly how many employees you need to be most efficient in accomplishing your tasks.

Ms. JACKSON. There have been workload studies done in the past, sir, and we can certainly get those to you.

Mr. GRIFFITH. OK. If you could get those to me because, you know, look, I know you can go to absurdity. You can't go down to one employee and be more efficient than you are with a certain number of employees but I do note that it appears you all are doing a lot more with a lot less already, and I am just wondering where the break point is because we are trying to find money, and I hope you appreciate that.

And then—my time is up. I yield back.

Mr. WHITFIELD. Thank you, Mr. Griffith.

At this time I recognize Mr. Engel of New York for 5 minutes.

Mr. ENGEL. Thank you, Mr. Chairman.

I want to reiterate and mention some of the topics that have been mentioned, but before I do that, I want to thank you for the job you have done, the excellent job you have done. You are on the hot seat. It is a tough job. But the work that you do is so important, and one of the frustrations that I have had with this majority in Congress is that the attacks on the EPA and the attacks on clean air and clean water and all these things are very, very frustrating to me because I believe that the role that you play is such an important role and that we ought to be facilitating the things that you do rather than impeding them. So I want to thank you personally for the job you have done, and I am glad that your agency is there and I am glad that you are doing the work the American people want us to do. People want clean air and clean water and all these other things, and I just wanted to state that.

I wanted to add my voice to Ms. Castor, who spoke about the reduction in the 2013 budget of $359 million for the Clean Water and Drinking Water State Revolving Funds. I hope there might be a way to try to restore some of that money because my State of New York has received many millions of dollars to protect our watersheds and make upgrades and repairs to our sewer systems, and EPA's most recent drinking water infrastructure needs survey indicates that New York will require $29.7 billion over 20 years to ensure continued delivery of safe public drinking water. So I want to emphasize that and I hope you can find some way to restore those cuts.

I want to talk about fracking because that is something in my State that is a hot topic. We have many, many people who are fearful of fracking. Obviously we don't want it to contaminate the drinking water or have fracking by the watersheds, and that is a concern that I have. On the other hand, it has the potential to create many jobs in western New York as it has been doing in Pennsylvania, and I know Ms. DeGette and Mr. Green had spoken with you about it with the study. I think the study is a good idea. I think that we have to know what we are dealing with. I think it is important to wean ourselves off of Middle Eastern oil and Venezuelan oil, quite frankly, with countries that don't wish us well but I do think that the fracking is something that many people remain fearful of. So I wish you well in your study and I hope we can have the results of that soon.

Finally, I want to mention a topic that hasn't been mentioned, and that is PCBs in schools. Last February, New York City embarked on a 10-year, $700 million plan to replace all the old lighting ballasts in all New York City schools over the next decade.

Could you please explain EPA's role in that remediation project and provide for me an update on its status? And could you also please provide an update on efforts to address window caulking in schools as well?

Ms. JACKSON. Certainly, sir. In 2011, EPA inspected New York City schools for leaking. The lighting ballasts were leaking and they were leaking PCBs, and those inspections found numerous leaking ballasts with PCB concentrations some exceeding 600,000 parts per million. The city stepped up and announced a plan in 2011 to replace all PCB lighting ballasts in 772 schools. I believe it is part of their capital budget plan to make schools more energy efficient, the lighting being part of that. The city has allocated about $708 million in its budget to implement their plan over 10 years. EPA has reviewed that plan and told city officials that 5 years would be a more reasonable time frame to address the ballast issue as part of the larger plan.

Mr. ENGEL. Well, I know 5 years, I know New York lawyers for the public interest have recommended 2 years, and I know things are difficult to be done in 2 years. PCB contamination in our schools, as you know, is widespread and threatens the health of hundreds of thousands of schoolchildren certainly in New York City and the exposure in children has been found to decrease IQs and increase risk of ADD, among other things.

Again, I hope you will look into that, and again, I want to emphasize, thank you for your very, very good work.

Mr. WHITFIELD. At this time I recognize the gentleman from Kansas, Mr. Pompeo, for 5 minutes.

Mr. POMPEO. Thank you, Mr. Chairman, and thank you for being here today, Administrator Jackson.

I want to talk about enforcement. We haven't had a chance to talk about that at all, and your enforcement policies. You have asked for an increase in your budget for the Office of Enforcement and Compliance. You asked for a $33.5 million increase there. And I have heard lots of concerns from my district about enforcement policies at EPA, and I thought I would do it in the micro today. You mentioned something called the general duty of care a little bit earlier in answer to a question as part of the Clean Air Act. Can you tell me if you have adopted any EPA-wide policies or guidelines with respect to the definitions inside of the Clean Air Act related to the general duty of care?

Ms. JACKSON. I am not aware of any, sir, but we can certainly talk to the Office of Enforcement.

Mr. POMPEO. There is a term in there called "extremely hazardous chemicals" and you have the risk mitigation plans which require that certain chemicals are stored at manufacturers or producers, but as I understand your enforcement policy, even if a chemical is not listed as one of those chemicals that requires a risk mitigation plan, you can ding the producer or the manufacturer under this sort of not very well defined general duty of care. Is that correct?

Ms. JACKSON. I believe that is right. It happened after Bhopal, I believe, that they added this idea that manufacturers have to be proactive in looking to have that extra duty of care.

Mr. POMPEO. So this is a place I would love to work with you all. Really, and this is Congress's fault, they gave you these really undefined terms and very general authorities and said hey, you need to put some definitions to it. You have chosen not to do that by regulation or by policy memorandum so you have left this wide open and now whether it is acetone or whatever it may be, producers in warehouses have no idea which chemicals you may come after them for under this general duty of care standard. I would love to work with you to develop cleaner standards. Frankly, I would rather get rid of Section 112(r). I think you have got plenty of authority under the RMP program to decide which chemicals are truly dangerous.

Ms. JACKSON. Why don't we have our folks talk about that? If there are specific issues or in general, I would be happy to help.

Mr. POMPEO. I would be happy to do that. Do you reward folks inside your agency for performance for how many fines they get or how successful they are at obtaining injunctive relief by value?

Ms. JACKSON. We do track fines and injunctive relief. I think large cases that are very difficult, it would not be unusual for a manager—I used to run an enforcement program at EPA many, many years ago—for a manager to note hard work and diligence but not specifically—you know, you are not tied to how much money you bring into the Treasury or how many actions you take.

Mr. POMPEO. And all that money does go to the Treasury? The employees don't get it as an incentive compensation? You don't get it because you have done a good job?

Ms. JACKSON. No.

Mr. POMPEO. EPA doesn't get it as part of their budget, it just goes back to general revenues for the Treasury? Is that correct?

Ms. JACKSON. Penalty money and fine money goes back to the Treasury. The exception is the Oil Pollution Act. There has been lots of discussion about that.

Mr. POMPEO. I appreciate that. I will tell you that in region 7 at the end of 2010, there was a press release issued that sounded like—and I will read it to you. This was from region 7 on December 6, 2010, and it says, "Departmental compliance and enforcement activities conducted by region 7 during FY 2010 sets a new record, securing more than $3 billion in investments in pollution control and cleanup as a result of legal action taken against polluters." It then brags that it collected fully 31 percent of EPA's fines all across the country. Two thoughts. One, is that the kind of press release you think is appropriate, bragging how much money you have taken out of the United States economy? And second, 31 percent from a single region, region 7, do you think that suggests there is differential enforcement or the regions are just that different?

Ms. JACKSON. No, enforcement fines are oftentimes somewhat serendipitous. They depend on, one large case in one region could make all the difference. If there is a fine, for example, with respect to the BP incident, that could make one region's fines look huge.

In terms of bragging on investment in cleanup and investments in—those are generally injunctive relief where we require a company not as much to pay the fine but to do the work to come into compliance, and we think it is important that the American people know that there is an environmental cop on the beat. It deters peo-

ple from violating, and that is an important part of an enforcement program.

Mr. POMPEO. I would suggest that when the agency uses the term "polluters," I guess that some of those were by agreement, some of that injunctive relief was probably with agreement with a particular business or individual. Is that probably right?

Ms. JACKSON. Yes, but they probably—but that agreement came as a result of an enforcement.

Mr. POMPEO. And they probably in their agreement said this agreement doesn't indicate any wrongdoing, it simply says we are willing to cooperate with the EPA and yet you use the term "polluters," which I would tell you in Kansas, we view that as a negative term. We think of polluters as being folks that we don't think very highly of and yet your agency uses that kind of term in a press release for their neutral enforcement powers, and I would just suggest you ought to talk to folks about not using language like that.

Ms. JACKSON. Thank you.

Mr. WHITFIELD. At this time I recognize the gentleman from Louisiana, Mr. Cassidy, for 5 minutes.

Mr. CASSIDY. Hi, Ms. Jackson.

Ms. JACKSON. How are you, sir?

Mr. CASSIDY. You are always well prepared and unflappable, so even though we often disagree, let me just compliment you on just how your kind of whole presence is, so——

Ms. JACKSON. I am worried about the other shoe that is about to drop.

Mr. CASSIDY. There is no other shoe. It is truly a compliment.

Ms. JACKSON. Thank you, sir.

Mr. CASSIDY. The CARE grants, I don't understand these well, but I am told that CARE grants which go to community organizations, the science that they generate or at least the press releases they generate is not peer-reviewed science. The State's DEQ does not look at it, you do not look at it, but I can tell you they get headlines, and sometimes in our kind of media-driven society, that headline has an impact. So, one, is that true, that when these community groups get grants from EPA, there is nobody at EPA responsible for vetting the validity of the claims? First, is that true?

Ms. JACKSON. Well, we certainly don't vet their press releases. We ask them to use sound science and we expect and hope they will, but because they are community groups, we don't hold them quite to the same standard we might a governmental entity or, I hope, ourselves.

Mr. CASSIDY. Now, I will tell you, that is a fair statement, but on the other hand, does anybody look at the responsibility of these community groups in general? Are they periodically audited to make sure that the science they are putting out or the claims they are making are actually justifiable or hyperbole?

Ms. JACKSON. I believe, sir, they are more audited to look at their fiscal responsibilities and taking——

Mr. CASSIDY. That is a fair statement, and I could believe that. On the other hand, I will tell you that when people put things out in the press, if it is read, people believe it sometimes even if there is no validity. Let me just suggest that if we are going to hold you

or a State DEQ or an industry group responsible for the validity of their science, these groups should be as well. I mean, they certainly influence the debate as much as a major employer would who happens to have an emissions issue. Would you agree with that?

Ms. JACKSON. I think it is fair that if there are claims being made that someone could ask EPA whether or not we agree with that data, so in general, I see your point, sir.

Mr. CASSIDY. Thank you. Secondly, the President in his State of the Union speech spoke of natural gas being used as a transportation fuel and hoped to encourage such. I am not aware of any initiative, though, that he has proposed, certainly nothing legislatively. Do you know of such an initiative?

Ms. JACKSON. I don't believe there is a legislative initiative right now, sir.

Mr. CASSIDY. And is there an administrative initiative?

Ms. JACKSON. I seem to recall that he talked about a corridor in California that could be made to be natural gas friendly, and I thought that was voluntary with the State of California but I can check that for you.

Mr. CASSIDY. Now, one thing that has been proposed is a use of natural gas to create methanol from it to use it as a fuel additive, and so I really kind of pursued this because it seemed like it would be a wonderful way to come up with a low-cost way to supplement oil and gas, particularly with the ratio of cost of natural gas to oil, and I went so far as to meet with people from industry fairly high in research units at industry. They told me it will take 15 years conservatively for something such as methanol to be thoroughly vetted through EPA's regulations as to be safe for use, and it is not methanol per se but rather it was the agents to make it mixable within gasoline. Now, that said, and this is someone who has been currently working on ethanol and so he kind of knows of that which he speaks because this is the process they are going through with ethanol, if we are trying to use our natural gas as another way of transportation fuel, is there any way we can make that less? That is so daunting as to mean it is never going to happen.

Ms. JACKSON. Sure, it would be off-putting. I am happy to meet with or have my experts—you don't want them to meet with me but my experts in the fuels group talk to them about methanol in particular, and of course, natural gas in and of itself without a transformation is, I believe, what the President was more directly addressing in terms of a potential transportation fuel.

Mr. CASSIDY. But he has done—no offense, I am not being derogatory, he has just done no initiative on it, so it sounds really great and I actually think it is great, it is just nothing has happened. Now, the methanol could be a fuel additive just as ethanol is but again, I am told that the regulatory process is just so long as to mean it will never happen, which is a potential denial, if you will.

Ms. JACKSON. Well, I think it is worth having a discussion with those who are interested in pursuing methanol.

Mr. CASSIDY. You have been very responsive to me in the past on a certain issue. If you don't mind, I would like to meet with them just because frankly my industry groups are afraid of you.

Ms. JACKSON. Are afraid of me?

Mr. CASSIDY. Well, afraid of your agency. They are afraid they are going to be penalized by regulation.

We are tight on time. I will yield back. And again, you are unflappable and prepared.

Ms. JACKSON. Thank you for your kindness.

Mr. WHITFIELD. We do have one vote on the floor, but 400 people still have not voted, so Mr. Scalise, I am recognizing you for 5 minutes.

Mr. SCALISE. Thank you, Mr. Chairman.

I want to thank the Administrator for coming, and I want to specifically thank you, Administrator Jackson, for your support of our efforts to restore the Gulf of Mexico as it relates to dedicating the BP fines to Gulf Coast States. As you know, we passed a portion of the RESTORE Act here out of the House just a few days ago, and we are working with our Senate counterparts to try to get the entire piece of legislation, the RESTORE Act, truly bipartisan legislation, through the entire process. I don't know if you want to make any comments on the RESTORE Act but I want to thank you for your efforts.

Ms. JACKSON. I will simply say it is extremely important that those resources return to the Gulf of Mexico, so thank you for your leadership, sir.

Mr. SCALISE. Thank you. I want to talk about your budget. I know there has been some talk about what the President's proposal is and whether it is a reduction from current level. If you look at what we were given, the view over the 4-year period since you had come in, of course, there was a big spike through the stimulus bill in fiscal year 2010, which would represent about a 35 percent increase in your budget, and then it is tailored down a little over the years, but even with the President's budget request, it still would represent about a 9 percent increase from when you took office. I want to make sure that these numbers are the same that you are using because under these numbers that I am looking at, you started off with about a $7.6 billion budget, you go to an $8.3 billion budget, which represents still a $700 million increase over that 4-year period. I just wanted to point that out and make sure that was an accurate number.

Ms. JACKSON. Just two things, or maybe three. We continually increased the amount of money that is going to States and tribes even in a budget that is down 1.2 percent. A large part of that big jump you saw was for SRFs, which goes directly to the tribes and States. That was $2 billion and 475 for Great Lakes, so what has really happened is an erosion of those increases back, so we have heard a lot about infrastructure funding.

Mr. SCALISE. Right, but I just want to point out, some people are suggesting that there are big cuts. Actually there has been a $700 million increase over the 4-year period. I don't know how some people characterize that as a cut around this time but I think that is an increase, in fact, a high percent increase.

Ms. JACKSON. Well, they are cuts in fact from prior year budgets, but it is also really important to point out that the agency itself, 40 percent of our dollars head straight out the door to State and tribal grant programs and we are preserving those, so we are doing that at the expense of other agency efforts.

Mr. SCALISE. Right, and again, when you look at when your agency started your second year, I guess, with a 35 percent increase, that came at a time when many States and businesses were cutting back their budgets. So I just want to keep that in perspective.

On the hydraulic fracturing issue, I know my colleague from Texas has brought this up with you. I would strongly encourage your agency to allow the States to do what they have been doing so well for decades, and that is to do State regulation of hydraulic fracturing. I know it has worked very well in Louisiana in protecting not only our aquifers but allowing for a dramatic increase with this new technology in the amount of natural gas that our country can provide not only to our States, which we are pretty much self-sufficient on natural gas production in America, but with all these fines, not only does it provide opportunity for us to pull other vehicles off of gasoline and increase America's energy security but it has created thousands of new jobs. And so there is a real concern among the community in the natural gas industry that EPA is looking at getting into an area where the States have been very successful in regulating that process, so I just wanted to mention that.

On a local issue, I know you have worked with Nucor, which has built a plant in south Louisiana. They are currently pending a permit from the EPA, and that one permit alone would equate to about 700-plus jobs, and I wanted to know if you can give me the status of that permit. Do you have any kind of timeline of when that permit could be approved? Because about 750 jobs are waiting on it.

Ms. JACKSON. I believe we have approved the permit, and then there was litigation that was filed. I believe that is correct, Mr. Scalise, but I will check on that. I seem to recall that we actually issued the greenhouse gas permit for Nucor sometime last year.

Mr. SCALISE. I think there was one permit, but there is another permit that they are waiting on right now. That is my understanding.

Ms. JACKSON. I will check on that.

Mr. SCALISE. But I think there may be another one that they are waiting on right now that would be a second part of their expansion, which that alone would be over 700 jobs. So if you could give me a timeline of what the likelihood of approval of that would be?

I know my time is running short, so finally, on refineries, are you planning on regulating greenhouse gases at refineries?

Ms. JACKSON. There are no current rules under development on that issue. We have said in the past as part of our overall greenhouse gas strategy that the first big source is utilities, refineries are next, but we are not at this point——

Mr. SCALISE. As refineries are next, if you could just keep in mind, the Small Business Administration recently did a study that showed that the average cost per family of regulations as a whole comes out to about $15,000 a year per family for the cost of regulations, and this isn't just your agency, but when I talk to small businesses, many of them cite EPA as the worst offender in essence of this $15,000-per-family cost, so if you could keep that in mind as you——

Mr. WHITFIELD. The gentleman's time——

Mr. SCALISE [continuing]. Looking at these additional regulations, I would appreciate it. Thanks for coming, and I yield back the balance of my time.

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

Mr. Gardner of Colorado, you are recognized for 5 minutes.

Mr. GARDNER. Thank you, Mr. Chairman, and thank you as well, Administrator Jackson, for your time and patience to be with us today. I appreciate that.

And a question for you regarding regional haze, and I am sure you have heard this before from others either on this committee or other committees. Since the Clean Air Act authorizes each State to draft its own State-specific plan, a SIP, to address regional haze, do you foresee the EPA approving Colorado's SIP given that it has cross-spectrum support from electric utilities to environmental groups? It has been endorsed by Governor Hickenlooper, a Democratic governor. It has been approved by the split-control Colorado legislature, the Speaker of the House, split control and has the support in a letter that we went to the EPA of our two Democratic Senators, our three Democratic House members and four Republican House members.

Ms. JACKSON. I can't say yes or no but I will say this. I am aware that Colorado has done amazing work on looking at some of its haze issues, and I believe there are some issues on dates for certain units to put on controls versus shutdown. I think the region is working very closely with the State on that.

Mr. GARDNER. And I think right now the deadline is March 8th, I believe. Do you know if that going to be hit or miss at this point?

Ms. JACKSON. I don't have it in my notes, sir, but I will be happy to get back to you on that.

Mr. GARDNER. Thank you. And has the EPA used health standards to reject the SIPs of New Mexico and North Dakota?

Ms. JACKSON. EPA is still working with North Dakota and I believe a decision is due, if not today, tomorrow, and so we have—on regional haze, the issue is less about health but visibility.

Mr. GARDNER. So you are not using health standards on regional haze?

Ms. JACKSON. I am not aware that we are but I can certainly check. On North Dakota, I am more familiar because I have been dealing with that issue very recently with the delegation.

Mr. GARDNER. Thank you. And are you familiar with kinesthetic dance movements?

Ms. JACKSON. Kinesthetic dance movements? I know what the words may mean but I have never done them.

Mr. GARDNER. Kinesthetic learning?

Ms. JACKSON. Excuse me?

Mr. GARDNER. Kinesthetic learning. Are you familiar with kinesthetic learning?

Ms. JACKSON. No, sir.

Mr. GARDNER. One of EPA's primary activities is giving grants. Last December, EPA awarded $25,000 to the Repertory Dance Theater in Salt Lake City to educate youth about the impacts of air pollution. On EPA's Web site, there is a document describing what this money will be used for. The projects intends to, and this is a

quote, "The project intends to produce innovative lectures, demonstrations and movement classes in 10 elementary schools. Kinesthetic learning will be used to examine air quality issues and encourage youth and their families to adopt healthy living practices." What is this program?

Ms. JACKSON. You know, I have read about it, and we are reviewing it. It is an Environmental Justice grant program in Utah, as you mentioned. It is with a very well-respected group, a repertory group that uses dance to educate. Apparently they have a long history of doing this and are quite well respected, but we are reviewing it at the request of I think one of the members.

Mr. GARDNER. Why is the EPA giving $25,000 to a dance company?

Ms. JACKSON. Well, the Environmental Justice grant program is about educating communities about interventions in communities where there is large populations, for example, that may have asthma. I don't know if this is the case here. Self-education is an important part of getting those——

Mr. GARDNER. Given the testimony that you have talked about, funding shortages across the government, can you assure us that you are not going to make these kind of grants?

Ms. JACKSON. Well, as I said, we are reviewing the program because of when this came to light.

Mr. GARDNER. Perhaps we can talk a little bit further about kinesthetic dancing and whether EPA ought to be funding that.

Ms. JACKSON. I am certainly not the expert, but I do think that it is fair to say that we can review the program, and I will be happy to tell you what the results of that are.

Mr. GARDNER. Your budget proposal says EPA, and I know others have touched on this today, Mr. Latta and Mr. Burgess have touched on this, it says the EPA would reduce spending by $105 million but in previous years EPA has reused deobligated funds to do so. If EPA deobligates and reuses funds approaching $160 million amount like last year, EPA is really not reducing spending at all in 2013.

Ms. JACKSON. Well, this came up in an earlier question, Mr. Gardner. You know, we do deobligate funds. We report on those movements of funds and we are happy to follow up——

Mr. GARDNER. Do you report on those before you actually make the expenditure? Is it in the budget justification?

Ms. JACKSON. It is in the budget justification—in the financial statements. Excuse me, sir.

Mr. GARDNER. But not in terms of—I believe GAO actually said that Congressmen want EPA to submit information on recertifications in his budget justification documents. You are not doing in the budget.

Ms. JACKSON. We are doing it as part of our regular financial reporting.

Mr. GARDNER. So you are telling us that you spend it after you spend it?

Ms. JACKSON. I don't know whether it is after or before. I believe what we do is as we——

Mr. GARDNER. But would you agree as a matter of principle that we ought to know if you are reobligating funds that we know before you do that?

Ms. JACKSON. Well, in general, I think we have worked very well with Congress over the years to ensure that are spending the money as Congress intends.

Mr. GARDNER. So you agree that it is helpful for Congress to know about this use of funds in its justifications?

Ms. JACKSON. Sir, I am telling you that we deobligate money from time to time. I would bet all offices do. And when we do, we report it. We are not trying to hide anything.

Mr. GARDNER. But we would appreciate that getting that beforehand. Do you believe that this actually, deobligating these funds and reusing them actually decreases the need for new budget authority in the relevant accounts?

Ms. JACKSON. No, not necessarily, sir.

Mr. GARDNER. Do you think this money ought to be returned to the taxpayer if it is deobligated?

Ms. JACKSON. It depends on the issue, sir. I mean, we are living within the budget and obligations that we have but it depends on the issue.

Mr. WHITFIELD. The gentleman's time is expired. Thank you.

Mr. RUSH. Mr. Chairman, I invite my friends to join me in doing the kinesthetic cha cha.

Mr. WHITFIELD. When and where?

Mr. RUSH. We have a kinesthetic club in Chicago.

Mr. WHITFIELD. Oh, OK.

Ms. Jackson, thanks very much for being with us today. Before I let you go, I want to ask one additional question. Under the Renewable Fuel Standard law, EPA is required to publish the required volume obligations for certain fuel categories, and the proposed volume of biomass-based diesel specified in the June 2011 proposed rule was omitted from the final rule published in December, so what was there in June for the volume for diesel biomass was not in the final report in December, and I was just curious, was that an oversight or was there some other explanation for that?

Ms. JACKSON. Sir, I know I don't have a fact sheet on that. Can we get you an answer to your question after the hearing?

Mr. WHITFIELD. Yes, I would appreciate that very much if we could get that answer.

Thank you again for being with us. We appreciate you and Ms. Bennett taking the time to be here.

With that, the hearing is adjourned, and the record will remain open for 10 days for any additional materials to be submitted.

[Whereupon, at 1:20 p.m., the subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

Opening Statement of the Honorable Fred Upton
Subcommittee on Energy and Power and Subcommittee on Environment and the Economy
Joint Hearing on "The FY 2013 EPA Budget"
February 28, 2012

Chairman Whitfield, Chairman Shimkus, thank you for calling this hearing on the Environmental Protection Agency's 2013 budget request. It is particularly important to scrutinize EPA's budget request because, as we have learned in recent years, there's a very troublesome multiplier effect at work. Each dollar EPA spends can end up costing us many more dollars as a consequence of the agency's ill-advised actions.

For example, when EPA uses funds to come up with regulations that contribute to rising gasoline prices, it costs us both as taxpayers and at the pump. A similar thing happens when the agency raises our electric bills through burdensome power plant regulations.

Of particular concern to manufacturing states like Michigan, the agency continues to promulgate costly measures that put American manufacturers at a global disadvantage. It's bad enough when the federal government wastes taxpayer dollars, but it's unacceptable when money is being spent to the detriment of the country.

Worst of all, at a time of stubbornly high unemployment, the agency uses funds to pursue policies that jeopardize job growth. And this is not mere conjecture on my part. These two subcommittees have held a number of hearings over the past year, and we have learned quite a bit about the damage caused by some of EPA's actions. We have had dozens of private sector witnesses before us – representing energy companies, manufacturers, small businesses, and farmers. All of these job creators have pointed to recently promulgated and proposed EPA regulations as an unprecedented threat to them. I am concerned that the FY 2013 budget request contains funding for more of the same.

Now, there is no debate that EPA should get the resources it needs to carry out its legitimate functions under the environmental statutes Congress has enacted. But we have seen an unfortunate departure from common sense environmental regulation in recent years. To the extent EPA's new budget enables the agency to pursue an agenda that does more economic harm than environmental good, we need to demand changes.

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 1 3 2013

OFFICE OF CONGRESSIONAL AND
INTERGOVERNMENTAL RELATIONS

The Honorable Ed Whitfield
Chairman
Subcommittee on Energy and Power
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your March 20, 2012, letter to Environmental Protection Agency Administrator Lisa P. Jackson regarding the response to questions following the February 28, 2012 hearing before the Subcommittee on Energy and Power and Subcommittee on Environment and the Economy entitled "The FY 2013 EPA Budget." I am pleased to respond on her behalf.

Enclosed are the responses to the questions following this hearing. Again, thank you for your letter. If you have further questions, please contact me or your staff may call Christina Moody in my office at (202) 564-0260.

Sincerely,

Laura Vaught
Deputy Associate Administrator
for Congressional Affairs

Enclosure

cc: The Honorable Gene Green, Ranking Member

Committee on Energy and Commerce
Joint Subcommittee Hearing
Subcommittee on Energy and Power
Subcommittee on Environment and the Economy
February 28, 2012
Follow-Up Questions for Written Submission
Environmental Protection Agency Fiscal Year 2013 Budget Hearing

Congressman Whitfield:

1: Please provide a list of all grants (excluding US-Canada and US-Mexico border projects) awarded by EPA to foreign entities directly or indirectly since January 2009. Please include in your response the recipient, the amount, and the statutory authority for the grant.

Answer:
The enclosed list provides the requested information for grants awarded by the EPA to foreign entities directly or indirectly since January 2009. This list supplements the information the EPA previously provided the House Energy and Commerce Committee on grants made between Fiscal Years 2001 and 2011 and designated as international based on search criteria agreed to with the Committee. The list updates that information to include new international grants awarded to date in Fiscal Year 2012. It also adds one grant awarded prior to Fiscal Year 2012, Number 83435401, that the EPA recently identified as having incidental funding for foreign travel. The EPA did not include this grant in its initial submission to the Committee based on a review of its project description, which contained no reference to the foreign travel.

2: How does EPA measure the benefits obtained by the American people through U.S. environmental cooperation with a foreign country, excluding work with Canada and Mexico?

Answer:
The EPA's international efforts help protect the health and environment of American citizens. This vital work supports cooperation with other nations in reducing transboundary and global environmental threats to the United States and reduces the cost of the nation's environmental protection. It also serves broad foreign policy, economic, and public health interests. For example, we work with priority countries (e.g., China, Brazil) where explosive economic growth and rapid urbanization are increasing risks to human health and the environment – including risks that threaten the U.S. Much of our work is done via partnerships and collaborative networks with national governments, regional commissions, and multi-lateral organizations. This approach often requires specialized skills in negotiating, international diplomacy, and problem-solving, multi-media efforts.

For example, today's industrial chemicals are prevalent in everything from food to baby bottles, and ensuring global safe management of chemicals is important to protecting public health, particularly for children who are especially vulnerable to these chemicals. Reducing the use and

emissions of mercury is a priority because the majority of mercury deposition within U.S. borders comes from abroad. [i] As a world leader in environmental monitoring, the EPA also supports sound and transparent mercury monitoring and inventories, which will ensure that countries are not able to stay under the radar screen when they are contributing to the global pool of mercury pollution.

In addition, the electronics that provide U.S. citizens with indispensable tools for business and living are often exported to developing countries which, when improperly managed, can threaten human health and the environment. Both the EPA and the Government Accountability Office (GAO)[ii] have recognized this urgent concern, and the EPA is working with other federal agencies, international partners, and U.S. technology and recycling companies to address it. In July of 2011, the U.S. government released the *National Strategy for Electronics Stewardship*[iii] that sets forth recommendations for better management of electronics throughout product lifecycles. Also, the Coalition for American Electronics Recycling, an industry group, has stated that the U.S. electronics recycling industry can grow and create jobs here in the United States instead of shipping e-waste to developing countries.[iv]

There are other indicators of the value of cooperative interaction with other countries as well. The EPA works with countries to improve environmental standards to level the playing field in international trade, to the competitive benefit of the economic interests of the United States. Improving standards elsewhere also helps to reduce the number of imported products that may not comply with our own environmental laws, such as engines which do not meet our Clean Air Act standards. In addition, such interaction helps create markets for U.S. innovations in fields such as pollution control and remediation technologies.

Furthermore, environmental cooperation with other nations, particularly with other industrialized countries in Europe, Asia, and the South Pacific, provides the United States with opportunities to learn innovative approaches from our international peers. Examples are sharing technical methodologies on innovations in remote sensing, the use of intelligence for monitoring and detecting illegal movements of hazardous wastes, and comparing guidance on core competencies for enforcement personnel and training programs for staff to ensure program effectiveness.

Finally, the EPA is developing an approach to measuring the activities conducted and results achieved through its environmental cooperation with foreign countries and international organizations.

3: Under the Renewable Fuel Standard law, the EPA is required to publish its required volume obligations for certain fuel categories on an annual basis. These volume obligations inform industry stakeholders as to the specific amounts of renewable fuel that must be produced, purchased, blended or imported in order to comply with the program. While the annual volumes required for most fuel categories are established in the statute, the EPA is given some discretion with biomass-based diesel. The EPA is also required to publish such the required volumes 14 months in advance of their compliance year, meaning that volume

obligations for biomass-based diesel in 2013 were due in November of 2011. In June of last year, the EPA released a proposed rule which established proposed volumes for 2012 and called for 1.2 billion gallons of biomass-based diesel in 2013. However, when the EPA issued its final rule, it included the 2012 volumes but omitted the 2013 biomass-based diesel volumes.

a: Why were the proposed volumes of biomass-based diesel specified in the June 2011 proposed rule omitted from the final rule published in December of last year?

Answer:
In a Notice of Proposed Rulemaking (NPRM) published on July 1, 2011, the EPA proposed an applicable volume of 1.28 billion gallons for biomass-based diesel for 2013. On September 27, 2012, the EPA finalized the applicable volume of 1.28 billion gallons of biomass-based diesel for 2013.

b: When does the EPA expect to release these volume obligations so that industry may adjust accordingly?

Answer:
On September 27, 2012, the EPA finalized the applicable volume of 1.28 billion gallons of biomass-based diesel for 2013.

4: For FY 2013, what is the total amount requested in EPA's budget for climate change related programs and activities?

Answer:
The total climate change related funding for FY 2013 is $201.4 million. Below is a breakout of this funding.

Climate Change Funding ($000s)	**FY 2013 Pres Bud**
EPA	**201,456**
Research: Air, Climate, and Energy (Global Change)	20,281
EISA/Renewable Fuels Rule	18,606
Climate change grants to local governments	0
Climate Protection Program: Energy Star	53,872
Climate Protection Program: Global Methane Initiative	4,927
GHG Reporting Registry	18,694
GHG Reporting Registry - Grants	1,500
Climate Protection Program: Automotive technologies	0
Climate Protection Program: GHG Certification (transferred from CAT)	7,760
Climate Protection Program: Cap and trade technical assistance	0
Climate Protection Program: Carbon Capture and Storage	492
Climate Protection Program: other programs	30,006
Clean Energy	3,431

Methane Programs	6,210
Modeling and Analysis	8,503
High GWP Programs	1,317
GHG Accounting and International Capacity Building	4,208
State & Local Capacity Building	2,554
SmartWay	2,783
OEI - web tools/technology infrastructure	500
OCFO - Green conferencing	500
Federal Vehicle Fuels Standards and Certification: L/D and Large Transportation Sources	5,771
Federal Stationary Source Regulations: GHG New Source Performance Standards	7,367
Federal Support for Air Quality Management: GHG Permitting	4,995
State and Local Air Quality Management: GHG Permitting	25,000
Research: Safe and Sustainable Water Resources (Carbon Sequestration)	135
EISA Enforcement	400
Drinking Water Permits - Carbon Sequestration	1,650
*This table includes Climate Change Programs as well as other Clean Air Act, Safe Drinking Water Act, and Global Change Research Act programs that address Greenhouse Gas emissions or climate change impacts.	

5: EPA requests a $2 million increase for the development of New Source Performance Standards that address greenhouse gases. Besides utilities and refineries, what other source categories is EPA considering?

Answer:
The Administrator has decided to focus our initial NSPS efforts addressing greenhouse gases on power plants and refineries because those are the two largest stationary source categories of greenhouse gas emissions. Besides power plants and refineries, the agency has been sued for failing to timely update existing NSPS which are beyond their statutory review deadlines for the following source categories:

- Landfills
- Pulp and Paper
- Oil and Natural Gas Facilities
- Nitric Acid Facilities
- Portland Cement

In each of these instances, the litigants have sought to have the agency promulgate standards for greenhouse gasses (GHGs).

In addition, for Portland Cement, Nitric Acid, and Oil and Natural Gas, in response to public comments requesting GHG standards, the EPA indicated that it was continuing to evaluate potential regulation of GHGs. We must evaluate the significance of the emissions contribution of sources in a category, the availability of cost effective systems for emissions reduction, and other relevant factors in order to determine whether (and to what extent) standards for GHGs emissions should be established.

We have pending petitions requesting that we add coal mines and CAFOs to the list of source categories under Section 111 of the Clean Air Act (CAA). The agency would have to determine whether it is appropriate to list them before considering whether to establish standards for GHGs or other pollutants.

6: What is EPA's current schedule for proposing greenhouse gas New Source Performance Standards for power plants? What is EPA's current schedule for issuing a final rule?

Answer:
The Carbon Pollution Standard for New Power Plants was proposed on April 13, 2012. The public comment period is open until June 12, 2012; 60 days after the proposal is published in the Federal Register. The agency will then carefully evaluate all comments and other information received before issuing a final rule.

7: What is EPA's current schedule for proposing greenhouse gas New Source Performance Standards for refineries? What is EPA's current schedule for issuing a final rule?

Answer:
The Refinery NSPS is the subject of litigation that is currently stayed. A schedule for action on the rule is the subject of confidential settlement discussions.

8: What is EPA's current schedule for proposing revisions to National Ambient Air Quality Standards for particulate matter? What is EPA's current schedule for issuing a final rule?

Answer:
The review and potential revisions of the National Ambient Air Quality Standards for particulate matter are under development.

9: For EPA's January 2010 proposed ozone rule, EPA estimated that the costs would be $19 to $90 billion annually. What was the estimated total cost of the final rule that was submitted by EPA to the Office of Management and Budget in 2011 but was subsequently withdrawn?

Answer:
Consistent with the regulatory proposal, the EPA's January 2010 analysis estimated potential benefits and costs of just meeting a primary (health-based) ozone standard, in the year 2020, in the range the EPA proposed (0.060 to 0.070 parts per million, or ppm) and at a lower level (0.055 ppm) and at a higher level (0.075 ppm). Consistent with the draft final rule submitted to the Office of Management and Budget for interagency review in July 2011, which focused on revising the level of the primary ozone standard to 0.070 ppm, the EPA assessed the potential costs and benefits associated with that level (0.070 ppm) and at one lower level (0.065 ppm) and at one higher level (0.075 ppm). The cost range for these three standard levels from the draft final Regulatory Impact Analysis was estimated to be from $7.6 to $44 billion in the year 2020. The monetized benefit range for these three standard levels was estimated to be from $6.9 to $61 billion in 2020. These monetized benefits do not include those health and environmental benefits which cannot be monetized.

10: What is EPA's current schedule for proposing revisions to National Ambient Air Quality Standards for ground-level ozone? What is EPA's current schedule for issuing a final rule?

Answer:
The EPA's current schedule for completing its review of the National Ambient Air Quality Standards for ground-level ozone is to issue a proposal in late 2013 and to issue the final rule in mid-2014.

11: Please describe EPA's activities related to methyl bromide and the Montreal Protocol. How does EPA support the needs of U.S. farmers in ensuring they have access to methyl bromide for critical uses? What role does EPA play in the interagency decision-making process related to U.S. farmers and the Montreal Protocol? What activities are planned for fiscal years 2012 and 2013?

Answer:
Along with all other developed countries, in 2005, the U.S. phased out production and import of methyl bromide under the Montreal Protocol. The U.S. and other developed countries took this step because scientists determined that methyl bromide depletes ozone in the stratosphere. However, the Montreal Protocol includes exemptions to allow for continued production of otherwise banned ozone depleting substances (ODS) in certain cases. In the case of methyl bromide, countries that are Parties to the Protocol may nominate uses as 'critical' if lack of methyl bromide for that use would result in a significant market disruption, and if there are no technically and economically feasible alternatives suitable to the crops and circumstances of the nomination. In accordance with the treaty, the Parties then decide what level of production to permit for uses they agree to be "critical."

For many years, the EPA has participated in an annual interagency effort with the USDA and the State Department to develop and defend U.S. critical use nominations to secure the Parties' authorization to produce methyl bromide for critical uses. Specifically, the EPA works with grower groups, researchers, the State Department and the USDA to develop and support

annual critical use exemption nominations. Technical evaluations that support each year's nominations are rigorous, with the result that the U.S. has, on average, obtained the authorization of the Montreal Protocol Parties for 88 percent of each year's U.S. nominations since 2005.

Since 2005, the number of developed countries requesting critical use exemptions for methyl bromide has declined from a dozen to four, as alternatives are implemented. A critical challenge for the interagency partnership of the USDA, the EPA, and the State Department is to ensure that each year's request is fully technically supported, so that growers with legitimate critical needs are well-represented.

The EPA has also made it a priority to register and approve important alternatives for critical uses. Many alternatives have been registered since the initial decision by the Parties to the Montreal Protocol to phase out methyl bromide. Since the mid 1990s, the EPA has co-sponsored the Methyl Bromide Alternatives and Outreach conference. This conference is devoted to the sharing of information on current research into methyl bromide alternatives and serves as the premier forum for researchers from governmental, academic and private institutions, extension agents, applicators, and growers to share information.

Activities planned for FY12 and FY13 include discussions with stakeholders in support of nominations, supporting the international technical review process for those nominations, reviewing new data from growers, and developing the rulemakings that allow U.S. domestic production of methyl bromide for critical use exemptions to continue in accord with U.S. obligations under the Montreal Protocol.

12: Please describe the process U.S. farmers use to request methyl bromide. How are the requests reviewed? Has the review process changed over time? Has EPA changed the type, quantity or amount of data required by U.S. farmers? Please describe in detail the information required by the agency.

Answer:
As described above, the EPA has participated in an annual interagency effort to solicit, compile and review data to determine whether the critical use criteria are met. The interagency partnership of the EPA, the USDA and the DOS annually solicit applications from stakeholders, including growers and grower groups, compile and review any applications sent in response, and use the result of this process to develop an annual U.S. nomination for critical uses to be forwarded to the Parties in January of each year.

Each year, the applicants are asked to fill out an application form describing the market distribution of methyl bromide as well as the technical and economic feasibility of alternatives. For the last round of applications, the Federal Register Notice of June 6, 2011 listed specific information that country ham producers should provide: "List how many facilities have been fumigated with methyl bromide over the last three years, rate, volume and target Concentration Time (CT) of methyl bromide at each location, volume of each facility, number of

fumigations per year, and date facility was constructed. The agency must have a description of your future research plans which includes the pest(s), chemical(s) or management practice(s) you will be testing in the future to support this CUE."

The EPA and the USDA share strong technical roles in developing annual nominations. At the EPA, a team of plant pathologists, agronomists, entomologists, and economists in the Office of Pesticide Programs reviews data submitted by applicants, as well as data from governmental and academic sources. The USDA's Agricultural Research Service gathers additional information form growers and researchers in support of the applications. The EPA, USDA, and the U.S. Department of State then develop and submit the nomination to the international UN body that administers the Montreal Protocol. The Methyl Bromide Technical Options Committee (MBTOC) and the Technology and Economic Assessment Panel (TEAP), which are advisory bodies to Parties to the Montreal Protocol, review the nominations.

While the critical use criteria have not changed, the process – now in its tenth year – and questions from international bodies have evolved. For example, this winter, the MBTOC asked for additional information regarding the use of methyl bromide to fumigate country ham facilities. The EPA and the USDA have reached out to the applicants and university researchers to obtain the best possible information in support of this sector. To provide U.S. nominations with the most robust defense possible, the EPA and the USDA continue to work with applicants for critical use exemptions to assure well-supported and technically sound nominations.

13: As you may know, the Committee has launched an inquiry into the sale of fraudulent so-called "RINs" (Renewable Identification Numbers), particularly those sold by Clean Green Fuels, under the requirements of the Renewable Fuels Standard in the Clean Air Act.

a: Is it the EPA's position that good faith purchasers that used Clean Green RINs for compliance with the Renewable Fuels Standard are required to "replace" those RINs?

Answer:
Invalid RINs may not be used for compliance, so any party that used invalid RINs to demonstrate compliance will have to demonstrate compliance without use of such RINs. The renewable fuel standard program is designed to reduce the nation's dependence on foreign oil and help grow the nation's renewable energy industry. The Renewable Fuels Standard (RFS) regulations explicitly state that invalid RINs cannot be used to achieve compliance with Renewable Volume Obligations, regardless of the party's good faith belief that the RINs were valid at the time they were acquired (40 C.F.R. §§ 80.1131(b)(1), 80.1431(b)(2)). The EPA alleges that Clean Green RINs are invalid because that company produced no renewable fuel. Congress' goals in establishing the RFS program would not be met if these invalid RINs could be used for compliance.

b: Does the Clean Air Act itself require victims of fraud to replace invalid RINs?

Answer:
The Clean Air Act requires that the EPA promulgate regulations to ensure that transportation fuel sold or introduced into commerce in the United States contains the mandated volumes of renewable fuel, advanced biofuel, cellulosic biofuel, and biomass-based diesel. The Act also requires that the EPA implement a credit trading program to provide parties with a flexible way to comply with the renewable fuel mandates. The regulations that the EPA promulgated to implement the volume mandates and the credit trading program do not allow invalid RINs to be used for compliance. This approach is consistent with the credit trading programs in the EPA's other fuels programs.

c: Is it EPA's policy that, in addition to being required to replace fraudulent RINs, obligated parties should be made to pay civil penalties for the use of such RINs – even though the RINs were purchased in good faith? Are such penalties required under the Clean Air Act?

Answer:
The Clean Air Act provides that any person who violates the RFS regulations shall be liable to the United States for a civil penalty. These penalties help reinforce the need for companies to ensure that only valid renewable fuel RINs are used and help protect the integrity of the program.

The EPA has published an Interim Enforcement Response Policy to Resolve Violations Arising from the Use of Invalid 2010 and 2011 Biomass-Based Diesel RINs. This is available at http://www.epa.gov/compliance/resources/policies/civil/erp/erp-invalidrins.pdf. This policy implements a streamlined approach that allows parties that used invalid 2010 and 2011 biomass-based diesel RINs to quickly resolve violations by replacing invalid RINs and paying a penalty that is significantly less than the maximum statutory civil penalty. The EPA will evaluate penalties for violations that are not covered by this policy on a case-by-case basis.

14: During the RFS rulemaking processes, EPA indicated that penalties would not be automatic for good faith purchasers. For example, in the preamble to the RFS regulations, EPA stated that "a penalty for a good faith purchaser is not automatic" and "any penalty for a good faith purchaser would likely be small..." (See 72 Fed. Reg. 23900, 23951 (May 1, 2007).) Similarly, in the preamble for the 2010 rules, EPA stated: "In determining what penalty is appropriate, if any, we would consider a number of factors, including whether the obligated party did in fact procure sufficient valid RINs to cover the deficit created by the invalid RINs, and whether the purchaser was indeed a good faith purchaser based on an investigation of the RIN transfer." (See 75 Fed. Reg. 14670, 14731 (March 26, 2010)).

a: Is EPA taking these factors into account for good faith purchasers before deciding whether to impose penalties?

Answer:
Yes. The EPA considered these factors when developing the Interim Enforcement Response Policy, and will also consider these factors in evaluating appropriate penalties in any cases that are not covered by this policy.

b: If an obligated party was a good faith purchaser and replaced the Clean Green RINs, will it still be subject to penalties? If so, why? What purpose is served by such penalties?

Answer:
The RFS regulations are clear that "invalid RINs cannot be used . . . regardless of the party's good faith belief that the RINs were valid." 40 C.F.R. §§ 80.1131(b)(1), 80.1431(b)(2)). The EPA is seeking penalties from companies that used invalid Clean Green RINs to demonstrate compliance. This protects the integrity of the RIN trading program and helps maintain a level playing field for companies that buy valid RINs from parties that actually produce renewable fuels. The EPA has, however, offered to mitigate penalties for obligated parties that replaced Clean Green RINs with valid RINs and resolve violations arising from the use of these RINs for modest penalties.

15: Does EPA provide any kind of safe harbor for companies that purchase RINs in good faith, and with a reasonable amount of due diligence? If not, why not? Is that something that Congress should address?

Answer:
The RFS regulations do not provide a "safe harbor" for companies that purchase and use invalid RINs. Under the RFS program, it is the responsibility of obligated parties to ensure that they use valid RINs to demonstrate compliance. The regulations are clear that invalid RINs cannot be used to achieve compliance, regardless of the party's good faith belief that the RINs were valid at the time they were acquired. As the EPA explained in establishing the regulations, the agency will not validate or certify RINs, and parties in the RIN market should use good business judgment and prudent business safeguards in RIN transactions. "These enforcement provisions are necessary to ensure the RFS program goals are not compromised by illegal conduct in the creation and transfer of RINs." 72 Fed. Reg. 23,900, 23,932–33 (May 1, 2007); 75 Fed. Reg. 14,670, 14,731 (March 26, 2010). The EPA may, however, consider the level of due diligence actually undertaken in a given case and whether a company acted in good faith in determining the appropriate enforcement response to a violation arising from the use of invalid RINs.

Congressman Shimkus

1: EPA's initial guidance on how to distribute $15 million in drinking water technical assistance in FY 2012 appropriations does not include the Congressional directive to prioritize funding that is most beneficial to small communities. Congress directed the agency to prioritize

funding to organizations, "supported by a majority of small community water systems..." This was to ensure small communities would find the program most beneficial.

a: Why won't EPA prioritize this essential funding in this way?

Answer:
The EPA implemented the Congressional directive by including, as part of the selection criteria, language in the Request for Applications (RFA) that allows the applicants to submit evidence of support from potential recipients of their services, such as letters of support or other means as identified by the applicant. This selection criterion will prioritize funding for applicants with the expertise in providing training and technical assistance to small systems that serve less than 10,000 people. The EPA estimates there are 47,847 community water systems serving less than 10,000 in this country. Due to the considerable number of small water systems nationwide and the need to award funding within 180 days, the EPA needed to develop a fair and efficient approach to evaluating applicants "supported by the majority of the small community water systems."

b: Can EPA implement this directive by asking small water applicants to demonstrate the level of support of small communities?

Answer:
In the EPA's RFA, the agency included evaluation criteria that states that the applicants need to demonstrate a degree of support from potential recipients of technical assistance, through letters of support or other means as identified by the applicant. The applicants are allowed to provide up to 15 letters of support from potential recipients of the training and technical assistance to demonstrate that the applicant's proposed approach is responsive to the needs of the potential recipients. The agency limited the number of letters of support that could be submitted as part of the application package to minimize the burden on the applicants, who only have 45 days to submit their applications.

2: Are you planning to conduct aerial surveys of former phosphate mine sites in Florida?

Answer:
The EPA has identified a number of sites in West-Central Florida that may have been impacted by phosphate mining activities. Activities from phosphate mining can result in potential negative impacts in soil, surface water, and ground water, including potentially harmful levels of radiation. The EPA, the Florida Department of Environmental Protection, the Florida Department of Health, and the Agency for Toxic Substances and Disease Registry have had discussions regarding the best way to assess potential environmental and health impacts at these sites. While public health protection must always come first, the EPA wants to achieve this protection in a targeted and cost-effective way.

Over the past several years, the EPA has considered a number of different potential approaches, including aerial surveys, to assist in assessing these sites. At this point, the EPA

currently is not pursuing aerial surveys and is focusing on evaluation of alternative options. An alternative approach would not involve the use of aerial surveys and is intended to focus appropriate state and federal efforts and authorities on aspects of these sites that have the potential to pose the highest risks to public health. In pursuing any such approach, the EPA would work collaboratively with Florida agencies and authorities and would include an open line of communication with concerned citizens.

3: If so, how much money is dedicated in EPA's budget request for these efforts?

Answer:
The EPA has only staff time for the evaluation of alternative options, but no funds dedicated to flyovers in the FY 2013 budget request.

4: You testify that EPA's proposed budget "continues EPA's ongoing congressionally directed hydraulic fracturing study" and that this budget requests $14 million in total to work collaboratively with the United States Geological Survey, the Department of Energy and other partners to assess questions regarding hydraulic fracturing.

a: Please explain the purpose of this study.

Answer:
The EPA recognizes the significant opportunity hydraulic fracturing presents for our Nation's energy future and job production, yet important public and environmental health questions remain. To address these questions, the FY 2013 request of $14M for research on hydraulic fracturing includes $6M to complete the congressionally-requested study on the potential impacts on drinking water resources, and $8M to understand potential air, water quality, and ecosystem impacts. The purpose of the study examining the potential effects on drinking water resources is described in detail in the EPA's "Plan to Study the Potential Impacts of Hydraulic Fracturing on Drinking Water Resources."[1] The purpose of the air, water quality, and ecosystem research is to address concerns that have been raised about sources of air emissions from hydraulic fracturing operations and the potential effects of hydraulic fracturing on water quality, and terrestrial and aquatic ecosystems. The research will be conducted in a highly coordinated and collaborative manner with the USGS, the DOE, and other partners.

On April 13, the EPA, the DOI (including USGS), and the DOE announced a new partnership to help coordinate their scientific efforts to ensure there is no duplication. The primary goal of this effort will be to identify research topics where collaboration among the three agencies can be most effectively and efficiently conducted to provide results and technologies that support sound policy decisions by the agencies responsible for ensuring the prudent development of energy sources while promoting safe practices and human health. On the same date, an Executive Order was issued to create a new Interagency Working Group to Support Safe and

[1] See http://www.epa.gov/hfstudy/HF_Study_Plan_110211_FINAL_508.pdf.

Responsible Development of Unconventional Domestic Natural Gas Resources, which will further enable interagency coordination.

b: Is EPA planning to expand the scope of this study? If so, what new areas does EPA want to address?

Answer:
No, the EPA is not expanding the scope of the congressionally-requested study, but rather will use a portion of the requested funds ($6M of the $14M total in FY 2013) to complete this effort. The additional funds ($8M) will be used to address key concerns relating to potential air, water quality, and ecosystem impacts.

c: This study is pursuant to Appropriations Committee report language, not statutory direction. Under what statutory authority is EPA expanding this study?

Answer:
The EPA is not expanding the scope of the study on the potential impacts of hydraulic fracturing on drinking water resources. The other studies the EPA will conduct on hydraulic fracturing, with the additional resources the agency requested in FY 2013, will be carried out under the EPA's full suite of applicable authorities. These authorities include: section 1442 of the Safe Drinking Water Act, section 104 of the Clean Water Act, section 10 of the Toxic Substances Control Act and section 103 of the Clean Air Act.

d: The original report language places the responsibility for this study on EPA. If EPA is asking for $14 million, how much is being committed from the budgets of USGS or the Energy Department?

Answer:
The total budget requested by DOE and USGS in FY 2013 for hydraulic fracturing research is $12M and $19M, respectively.

e: The original report language asked EPA to work with "appropriate State and interstate regulatory agencies." Does EPA's budget request expanding this study take into consideration the participation of the States? If yes, which ones?

Answer:
Coordination and communication with the States and interstate regulatory agencies is extremely important to the EPA. The EPA has worked extensively to engage interested parties, including the States, since the planning stage of the research began. This will remain a priority as the agency works in FY 2013 to complete the drinking water study associated with the original report language and initiate research to address other important environmental and public health concerns. A variety of mechanisms will be used, such as conducting informational meetings and webinars, to share information on various aspects of the study and to coordinate research efforts at specific locations (to be determined) where field work will be conducted.

f: Who are the "other partners" EPA believes are important for inclusion in this study?

Answer:
In addition to state and interstate agencies, other partners include local governments, the Tribes, non-governmental organizations, industry, the public, and other federal agencies.

g: Has any preparatory work been initiated? If so, can you please provide details?

Answer:
An initial, limited, effort is underway to scope out the types of research efforts relating to potential air, water quality, and ecosystem impacts that may be addressed with the $8M portion of the FY 2013 request. The Memorandum of Agreement between the EPA, the DOI, and the DOE was issued April 13.

h: Who will be the lead Agency?

Answer:
Under the Memorandum of Agreement, issued April 13, the lead agency of the Steering Committee will rotate annually among the DOE, the EPA, and the DOI.

i: How will peer review and stakeholder input be incorporated?

Answer:
Under the Memorandum of Agreement issued April 13, within 6 months of formation, the Steering Committee will have a draft of the research plan prepared for public comment. As part of establishing the research plan, the Steering Committee will solicit comments from the scientific community, public and relevant stakeholders and will hold periodic workshops for this purpose, as appropriate. Peer review and stakeholder input will continue to be of great importance to the EPA, just as they have been for the congressionally-requested study focusing on potential impacts to drinking water resources.

j: How is this different from other studies that have already been conducted?

Answer:
The existing peer reviewed literature on potential air, water quality, and ecosystem impacts associated with hydraulic fracturing is limited. Hence, there is a critical need for the rigorously conducted and peer reviewed research that will be supported by the FY 2013 funding request.

K: How does the Administration want to use this study?

Answer:
The study of potential air, water quality, and ecosystem impacts, along with the research that is focused on drinking water resources, will provide a scientific foundation for ensuring the

safe and responsible development of the Nation's oil and gas supplies. The results of these studies will be used by decision makers in the public and private sector, and will provide answers to concerns that have been raised by the public.

5: When EPA does "study" work to assess the risks of something, is it standard for EPA to use Section 104 of CERCLA as its main authority to collect information?

Answer:
The statutory authority the EPA exercises to perform studies, assessment work, or to collect information generally depends on the subject matter of the study, assessment, or information collection effort. The EPA exercises its authority under CERCLA 104(e) when determining the need for a response, or choosing or taking a CERCLA response action related to a release or threatened release of a hazardous substance or pollutant or contaminant. CERCLA 104(b) provides authority for studies, and since the signing of CERCLA in 1980, the EPA has conducted hundreds of site investigations to assess potential risks to drinking water. For studies, assessment work, or information collection related to air or water, the EPA typically exercises its authority under the agency's research statutes including section 1442 of the Safe Drinking Water Act, section 104 of the Clean Water Act, section 10 of the Toxic Substances Control Act, and section 103 of the Clean Air Act.

6: You testify that "we must make sure that the ways we extract natural gas do not risk the safety of public water supplies." Please detail examples, if any, of where hydraulic fracturing, per se, contaminated finished water from community water systems, as defined under the Safe Drinking Water Act.

Answer:
The EPA has received complaints regarding drinking water quality in areas where hydraulic fracturing is occurring or has occurred. In determining the cause of any water contamination, clearly linking the contamination to a source requires extensive scientific rigor to conclude that one activity has affected another. The EPA is currently investigating several cases where contamination from hydraulic fracturing may have occurred, but definitive conclusions about these cases have not yet been reached.

It is important to note that the EPA's responsibility to protect drinking water under the Safe Drinking Water Act is not limited to "finished water from community water systems." The Safe Drinking Water Act generally provides the EPA with authority to protect underground sources of drinking water, which includes any aquifer that currently supplies or can reasonably be expected to supply any public water system.

7: EPA has been quite active, across several of its medial and regional offices, in looking at hydraulic fracturing as a means of producing natural gas. Is it your desire to have USEPA produce (1) Federal guidance with regulatory consequences or (2) regulations themselves regarding activities and processes connected to hydraulic fracturing under:

a: The Safe Drinking Water Act;

b: The Toxic Substances Control Act;
c: The Clean Air Act;
d: The Emergency Planning and Community Right to Know Act;
e: The Comprehensive Environmental Response Compensation and Liability Act; or
f: Subtitle C of the Solid Waste Disposal Act?

Answer:
The EPA recognizes the significant opportunity hydraulic fracturing (HF) presents for our Nation's energy future and job production, yet significant public and environmental health questions remain. The EPA is currently conducting a study of the Impacts of Hydraulic Fracturing on Drinking Water Resources. The study is expected to include a synthesis of the EPA's analysis of existing data on drinking water impacts from HF, retrospective case studies, initial results from scenario evaluations, and laboratory and toxicological assessments. The EPA expects to issue an interim 2012 report and a final 2014 report on the results of this important HF research study.

With respect to the Safe Drinking Water Act, the EPA is currently working on draft guidance to clarify existing Underground Injection Control program requirements as they relate to hydraulic fracturing when diesel fuel is used. The EPA intends to soon release this draft guidance for public comment. The EPA is not currently working on any regulations relating to hydraulic fracturing under the Safe Drinking Water Act.

With respect to the Clean Air Act, the EPA has finalized standards to reduce harmful air pollution associated with oil and natural gas production. The updated standards, required by the Clean Air Act, were informed by the important feedback from a range of stakeholders, including the public, public health groups, states, and industry. As a result, the final standards reduce implementation costs while also ensuring they are achievable and can be met by relying on proven, cost-effective technologies as well as processes already in use at approximately half of the fractured natural gas wells in the United States. These technologies will not only reduce 95 percent of the harmful emissions from these wells that contribute to smog and lead to health impacts, they will also enable companies to collect additional natural gas that can be sold.

With respect to the RCRA, the EPA is currently reviewing a petition submitted by the Natural Resources Defense Council concerning the regulatory exemption under subtitle C of RCRA for oil, gas and geothermal exploration, development and production wastes.

The EPA has no plans to issue guidance or regulations regarding hydraulic fracturing under the Emergency Planning and Community Right to Know Act, or the Comprehensive Environmental Response, Compensation and Liability Act.

8: If USEPA were to supplant state regulators as the primary regulators of hydraulic fracturing, please state:

a. The additional budget authority EPA needs to increase its in-house expertise and expand its programmatic and enforcement reach to carry out these authorities especially, as it relates to:
   i. chemicals registry and disclosure;
   ii. underground injection control activities related to well stimulation and waste disposal;
   iii. routine compliance inspections, whether under CERCLA section 104, RCRA sections 3007 and 3008, SDWA sections 1422 and 1445; and
   iv. technical assistance with process activities and regulatory compliance.

Answer:
The EPA has not developed such a proposal to supplant state regulators, so discussions about additional budget authority required to do so are unnecessary. The EPA is committed to building strong state and tribal partnerships. The EPA will continue to support state and tribal capacity and, through strengthened oversight, ensure that programs are consistently delivered nationwide. The agency continues to research hydraulic fracturing, its potential impacts on drinking water resources, clean air, public health, and environmental impacts. The EPA is in the process of developing guidance designed for EPA permit writers that will clarify existing Underground Injection Control program requirements as they relate to hydraulic fracturing when diesel fuel is used. The agency expects to release a draft of the guidance, for public comment in Spring 2012.

9: The "FY 2013 Activities and Performance Plan" states: "In FY 2013, <u>within the resources available,</u> the EPA (<u>where the EPA directly implements</u>) will implement guidance for permitting hydraulic fracturing where diesel fuels are used."

a: Where does EPA "directly implement" guidance?

Answer:
States, territories, and tribes can submit an application to the EPA to obtain primary enforcement responsibility, or primacy, for the Underground Injection Control (UIC) program. An agency that has been granted this authority oversees the injection activities in their state, territory, or tribe. Where primacy has not been granted, the EPA has direct implementation authority for the program. For UIC Class II programs, the EPA currently has direct implementation authority in Arizona, Washington, DC, Florida, Hawaii, Iowa, Kentucky, Michigan, Minnesota, New York, Pennsylvania, Tennessee, Virginia, American Samoa, the Virgin Islands, and most Indian tribes. Implementation of UIC regulations related to hydraulic fracturing are only an issue in several of these states where hydraulic fracturing is used to access oil and gas resources.

b: Could this activity actually have ramifications beyond where EPA would "directly implement" guidance?

Answer:
The EPA is currently developing this draft guidance, which will simply represent the agency's non-binding interpretation and recommendations. State, tribal, and territorial UIC Class II programs are encouraged to review and consider the information in this guidance.

c: What is the budgetary range meant by "within the resources available"?

Answer:
If the EPA were to receive the President's Budget Request in FY 2013, the EPA will invest between $600-$800 thousand for oversight and management of the EPA's UIC Class II program, which includes development and implementation of guidance for permitting hydraulic fracturing where diesel fuels are used. The guidance is intended for use by EPA permit writers where the EPA directly implements the UIC program. Funding for direct implementation programs is provided through the UIC State and Tribal Assistance Grants (STAG). In the jurisdictions where the EPA has direct implementation authority for Class II UIC programs (see question 9a), total tentative STAG allocations for FY 2013 are $1.74M. This allocation covers all activities associated with direct implementation of all classes of wells in these states, so permitting of wells where diesel fuels are used during hydraulic fracturing is just one portion of this allocation.

10: In 1988, the U.S. Environmental Protection Agency (EPA) and the Interstate Oil and Gas Compact Commission (IOGCC) began STRONGER -- a non-profit, multi-stakeholder organization whose purpose is to improve both the environmental regulatory universe as well as industry practices associated with the exploration, development and production of crude oil and natural gas. In the past, EPA and the Energy Department have both provided funding for environmental groups, industry, and regulators to these discuss critical issues. At a time when EPA is trying to learn as much as it can about natural gas development, why does the Agency's proposed budget eliminate funding to STRONGER?

Answer:
In the 1988 Regulatory Determination for Oil and Gas and Geothermal Exploration, Development and Production Wastes, the EPA committed to work with states to encourage changes in their regulations and enforcement programs. To that end, the EPA provided grant funding to the Interstate Oil and Gas Compact Commission (IOGCC) to develop national guidelines for state oil and gas programs which would be used as criteria for multi-stakeholder state regulatory program reviews. From 1990 through 1997, the IOGCC conducted, through a multi-stakeholder process, voluntary reviews of state regulatory programs for oil and gas exploration and production wastes. The review process stalled in 1997 due to a lack of funding and communications difficulties among stakeholder groups. The EPA facilitated meetings among the stakeholders in 1997 and 1998. As a result of these meetings, STRONGER (State Review of Oil and Natural Gas Environmental Regulations) was organized as an independent stakeholder governing body and incorporated as a non-profit corporation in 1999. The EPA provided grant funding of $100,000 in 1999, and $50,000 in 2000 to STRONGER. Additional funding was provided by the U.S. Department of Energy (DOE) and the American Petroleum

Institute (API). Congress appropriated an additional $297,600 in the EPA's FY 2005 budget for the STRONGER state review program. Funds have not been appropriated to the EPA for this purpose since 2005, and the EPA has not awarded competitive grants to STRONGER since this time.

The EPA appreciates the work STRONGER continues to do in developing guidelines and conducting voluntary reviews for state oil and gas programs, particularly concerning hydraulic fracturing.

11: Both environmental activists have thoroughly criticized the EPA for lack of transparency in the scientific methodology behind its multi-year water quality study on the impacts of hydraulic fracturing. As a result, millions of dollars are being spent on a report that, like the EPA's recent investigation into alleged contamination in Pavillion, WY, may not hold up to scrutiny from either side. What lessons do you plan to take from the Pavillion problems for the larger EPA study on hydraulic fracturing and water?

Answer:
The EPA has conducted the investigation in Pavillion, Wyoming, in a highly transparent and scientifically rigorous manner, supported by an extensive commitment of scientific resources. The EPA also announced on March 8, 2012 that it will conduct additional groundwater testing at the site, and the study will be independently peer reviewed. The study on the potential impacts of hydraulic fracturing on drinking water resources is being, and will continue to be, conducted with a similar dedication to transparency and scientific rigor. As with the Pavillion investigation, communication and coordination with stakeholders and research partners will be a priority. The highest level of quality assurance and quality control is being used to ensure that we are using consistent, scientifically defensible approaches and methods. The study will be peer reviewed by an independent panel of experts, and the public will have the opportunity to review and provide comments before the study is finalized.

12: This week, EPA plans to hold two quarterly stakeholder updates – the first on Monday and the second on Tuesday. In its announcement for the Webinar, EPA notes "it is committed to keeping you up-to-date on the study's progress" and that this is the first in a series of updates to be held in 2012. I understand that each webinar is only an hour long, with EPA making a presentation and allowing some amount of time for questions and answers with call participants.

a: Is this the only vehicle for those stakeholders interested in getting far more in depth information on the data gathered by the Agency, analysis finalized, and conclusions at this point in the study?

Answer:
In addition to regular status updates, the EPA will be sharing information through a variety of approaches. This will include, for example, posting information on the EPA's hydraulic fracturing website and conducting meetings with interested stakeholders. The most

comprehensive approaches for providing comprehensive information to the public on the data, methods, analyses and conclusions will be through the formal peer review process when the draft report(s) are publicly released.

b: Has EPA considered holding a workshop series, similar to the detailed sessions it held in the spring of 2011, in order to spend a more realistic amount of time reviewing the multitude of issues in a multi-million dollar study?

Answer:
We are considering holding workshops to discuss technical topics with outside experts, similar to those conducted in 2011. As indicated above, interested stakeholders will also have the opportunity to learn about the EPA's study through a variety of existing approaches.

13: What actions is the Agency taking to improve the quality of its data management to assure the credibility of the information it generates will be credible?

Answer:
The EPA is committed to ensuring the quality of all data collected during the course of the study. Quality assurance project plans (QAPPs) are developed for all parts of the current hydraulic fracturing drinking water study, for which research has been initiated. These are reviewed and approved by a quality assurance manager and senior technical research leads to ensure that the data generated will meet the research goals as stated in the study plan.

14: The hydraulic fracturing studies announced in the Administration's proposed fiscal year 2013 budget involve multiple agencies addressing the same issues. For each such study:

a: What are the specific roles and responsibilities of each agency?

Answer:
The Environmental Protection Agency (EPA), Department of Energy (DOE) and United States Geological Survey (USGS) are not conducting the same research. Extensive discussions and coordination across these Agencies are already underway to avoid duplication of research efforts. The EPA will continue to work closely with DOE and USGS on portions of the current study addressing the potential impacts of hydraulic fracturing on drinking water resources. On April 13, the EPA, the DOI (including USGS), and the DOE announced a new partnership to help coordinate their scientific efforts to ensure there is no duplication. The primary goal of this effort will be to identify research topics where collaboration among the three agencies can be most effectively and efficiently conducted to provide results and technologies that support sound policy decisions by the agencies responsible for ensuring the prudent development of energy sources while promoting safe practices and human health. On the same date, an Executive Order was issued to create a new Interagency Working Group to Support Safe and Responsible Development of Unconventional Domestic Natural Gas Resources, which will further enable interagency coordination.

b: What management structure will exist?

Answer:
From the memorandum of agreement issued on April 13, the three Agencies will create a Steering Committee to coordinate the Agencies' activities for unconventional oil and gas research. Each agency will contribute two members to serve on the Steering Committee: one member focused on policy and one member focused on research and technology. The Office of Science and Technology Policy will also provide a member to serve on the Steering Committee.

c: What Agency will be the controlling agency?

Answer:
The lead agency of the Steering Committee will rotate annually.

15: EPA is planning a study on air emissions from oil and natural gas production related to hydraulic fracturing. EPA has proposed a New Source Performance Standard (NSPS) for oil and natural gas production. Based on comments submitted to the docket on this proposal, EPA overestimated emissions from hydraulically fractured natural gas wells by as much as 1400 percent.

a: Why didn't EPA first initiate a study on air emission before making this faulty estimate?

Answer:
The EPA's final NSPS will significantly reduce the amount of pollution that escapes to the air when hydraulically fractured natural gas wells are being prepared for production – a step known as well completion. The EPA does not believe that we have overestimated emissions from these well completions, as comments to the proposed NSPS incorrectly claimed. As the EPA described in detail in its Response to Comments, there were a number of problems with the industry estimates.

The EPA's estimate of emissions from hydraulically fractured natural gas wells is based on the best data currently available. The EPA's emission factor for gas well completions with hydraulic fracturing represents potential gas emissions from the well completion process in the absence of controls to capture or flare the released gas. The EPA emission factor was developed using four data sources, representing the best available data for use in estimating this gas release from completion. These data include measurements from over 1,000 well completions with hydraulic fracturing, provided by industry between 2004 and 2007. The data includes measurements from well completions in a range of geologic formations including shale, tight sands, and lower-emitting coalbed methane formations, the three U.S. formation types where hydraulic fracturing typically occurs. The emission factor developed using this data is representative of average unmitigated emissions from hydrofracked well completions because it was based on data from roughly 1,000 wells, taken from a wide variety of formations, over

multiple years. The EPA also accounts for emissions reductions that occur through voluntary actions and from compliance with state regulations.

The FY 2013 President's budget request of $3.8M to examine the potential air quality and ecosystem impacts from natural gas drilling and hydraulic fracturing operations will improve our understanding of multiple emission components of hydraulic fracturing systems and the potential for human exposures. The proposed study will focus on new air research needs such as the issues identified in the final rule where data are currently lacking, including emissions associated with produced water ponds and hydraulically fractured oil wells. The ultimate goal of this research is to facilitate the identification and development of more environmentally responsible and sustainable hydraulic fracturing practices. Research will be coordinated with the Department of Energy and the Department of the Interior (including USGS) as part of the Memorandum of Understanding, which was signed on April 13th.

b: In the same NSPS proposal EPA uses emissions factors for vapor from oil storage tanks that is refuted in its own docket support materials. Does the agency have process to assure that its regulatory proposals make sense?

Answer:
The EPA extensively sought, and received, comment on the NSPS, both before and after issuing the proposed rule in July 2011. The agency's outreach included reaching out to the industry, the environmental community, state regulatory agencies, and tribes to ensure we had sufficient and accurate information on which to base the proposed rule, and holding public meetings to provide the public the opportunity to provide comment, data and information as we were developing the proposal.

As the agency does with all significant rules, we sought more public comment after the proposal was issued. The EPA held public hearings in the Pittsburgh, Dallas, and Denver areas. We believe these hearings and the extended public comment period (99 days) allowed the public sufficient time to digest the proposed rule and provide us with substantive feedback. The agency received 156,000 comments on the proposed rule.

We received information during the public comment periods that led us to make changes to the rule to ensure the final rule provides significant, cost-effective emission reductions. Some of these changes include: the phase-in of requirements for reduced emissions completions for hydraulically fractured gas wells; the change in the applicability threshold metric for storage vessels (from liquid throughput to estimated VOC emissions); and one year phase-in periods for storage vessels and pneumatic controllers. We believe these improvements make sense and are evidence that the notice and comment process works.

16: EPA announced that it plans to continue its Effluent Limitation Guideline development for coal bed methane (CBM) produced waters. This effort relies upon: (1) information many consider out of date, (2) economic data based on natural gas prices that are three (3) times current prices, and (3) production information that does not reflect the dramatic drop in coal

bed methane production. Since CBM produced water comes at the beginning of the production process, what benefit is it to continue this ELG action? Please state the estimated costs both to EPA, States, and the private sector to issue, implement, and comply with the ELG? EPA announced its intent to create an Effluent Limitation Guideline (ELG) for shale gas extraction produced water. What will it cost to develop this ELG?

Answer:
The EPA is aware of the market changes with natural gas and we have met with industry experts to fully understand these changes and are currently assessing the impact of these market changes on the EPA's announced plans to initiate and complete an ELG for CBM in 2013. The EPA also announced plans to develop national wastewater standards for shale gas extraction (SGE) and issue a proposed rule in 2014. Any proposed rule would contain estimates of the costs of the primary proposed options for the rule on States and the private sector.

17: EPA seems concerned that many states do not regulate fracturing under the Safe Drinking Water Act's Underground Injection Control (UIC) program. Yet, EPA is indicating that permits are required under the UIC program for specific applications of hydraulic fracturing. Entire state UIC primacy delegations and programs could be seriously jeopardized over this specific contradiction. Can EPA withstand challenges to the primacy delegation of the UIC program created by this inherent conflict?

Answer:
The EPA is working with states, industry and other stakeholders to help ensure that natural gas is developed responsibly and consistently with existing statutory and regulatory requirements. The EPA does not believe that primacy in any Underground Injection Control (UIC) programs will be "seriously jeopardized" by working towards ensuring that these requirements are met. Under the Safe Drinking Water Act, owners or operators of injection wells must obtain a UIC permit for hydraulic fracturing when diesel fuels are used in fracturing fluids. The EPA's implementing regulations – directly applied in all states where the EPA has direct implementation authority – specify that Class II UIC permits are required. In those states with primacy under SDWA section 1422, state UIC programs for permitting hydraulic fracturing must meet the requirements of the EPA's regulations, In states with primacy under SDWA section 1425, states must have an "effective program to prevent underground injection which endangers drinking water sources." The EPA is working to ensure responsible future permitting of diesel fuels hydraulic fracturing where the EPA is the permitting authority and to inform states of their obligation to issue permits consistently with these requirements. The EPA will continue to reach out to our regulatory partners in the states to work through any issues they may be encountering when permitting the practice, and is developing draft guidance for permitting under UIC for hydraulic fracturing activities that use diesel fuels in fracturing fluids.

18: Key aspects of the EPA study are the retrospective and prospective case studies. The EPA has identified five retrospective case studies, which will investigate reported drinking water contamination due to hydraulic fracturing operations at existing sites. These sites are located in North Dakota, Texas, Pennsylvania and Colorado. These retrospective case studies were

selected based on where operations have already occurred, but failed to screen out whether potential confounding factors or other issues might interfere with the quality of the data and any reliability of their conclusions. Further, any water contamination issues could have occurred years ago -- and without real investigation of the cause immediately following a reported incident. In the interest of ensuring high-quality data and valid scientific study and analyses, please state why EPA is focusing on these retrospective studies instead of on prospective sites.

Answer:
The goal of the EPA's current study is to determine whether or not hydraulic fracturing impacts drinking water resources, and if so, identifies key factors that affect the severity of any identified impacts. The EPA is engaged in a variety of research activities focused around answering these two questions, including retrospective and prospective case studies. With respect to the case studies, the EPA considers the retrospective case studies to be a useful and scientifically sound approach for determining whether or not hydraulic fracturing was responsible for reported impacts. The retrospective case studies will first seek to identify and quantify the reported impacts, then determine the source(s) of these impacts, which may or may not include hydraulic fracturing activities. All data generated during the case studies are subjected to rigorous application of the agency's quality assurance principles. Researchers will use these data to identify multiple lines of evidence that determine the source(s) of impacts. The EPA will assess and communicate the uncertainties associated with conclusions regarding the source(s) of drinking water impacts.

19: We understand that EPA has prepared new guidance that will define "diesel fuels" for purposes of regulating hydraulically fractured oil and gas wells under the Underground Injection Control program.

a. Does EPA's guidance adopt the broad definition that was posted in a PowerPoint presentation on EPA's website last year?
b. What is EPA's justification that Congress intended "diesel fuels" to be broader than just fuels used in diesel engines -- as the plain language of the Energy Policy Act of 2005 clearly contemplated?

Answer:
The Diesel Fuels Hydraulic Fracturing draft guidance being developed by the EPA will provide the EPA's current interpretation of the term "diesel fuels" in Section 1421(d)(1)(B) of the Safe Drinking Water Act. As a point of clarification to the question above, the guidance will not provide a binding definition of diesel fuels, but rather, will provide the EPA's recommendations for interpreting the term "diesel fuels," to be applied by the EPA permit writers on a case by case basis, considering the applicable statute, regulations, and case law.

In developing the Class II diesel fuels hydraulic fracturing guidance, the EPA is considering all input received during stakeholder outreach as well as other available information. The PowerPoint presentation (referenced in Question 19) available on the EPA's website was used to facilitate stakeholder discussions rather than to establish a definition of diesel fuels. When

the guidance is published in draft form, there will be opportunity for public comment on the recommendations for interpreting the term "diesel fuel" included in the guidance, as well as the basis for this recommended interpretation and other topics.

20: EPA's Office of Civil Enforcement has announced a new "Energy Extraction Enforcement Initiative" using enormously broad authority under CERCLA Section 104 to directly target the natural gas industry from "cradle to grave."

a: How is this consistent with the President's State of the Union remarks on the potential of shale gas development in this country?

Answer:
The EPA's Energy Extraction Enforcement Initiative is part of the effort to ensure that oil and gas resources are extracted safely to the benefit of all Americans.

b: How many new enforcement actions has the initiative resulted in?

Answer:
In FY 2011, the EPA conducted 362 evaluations/inspections, and completed 43 enforcement actions.

c: What are your findings so far about the nature of any violations?

Answer:
We have found violations under a variety of statutes, primarily involving the Clean Air Act and the Clean Water Act.

d: Why did the EPA seek to launch a new, expensive, litigious approach to top-down enforcement when industry is already policed by multiple state agencies?

Answer:
States are on the frontlines of regulating the energy extraction industry, and the EPA works with states and industry to advance the use of better design and management practices that limit potential adverse environmental impacts while increasing product capture. The EPA has authorities under a variety of environmental statutes and exercises these authorities to protect human health and the environment when the agency determines that it is appropriate to take such action.

The EPA's Enforcement Initiatives provide a framework for directing enforcement resources to serious existing and emerging pollution problems; for example, where local air quality or drinking water quality is compromised.

21: EPA states that in FY 2013 it needs an increase of $36.4 million to address existing chemicals that have not been tested for adverse health or environmental effects.

Answer:
The EPA's FY 2013 President's Budget proposes an increase of $11.1 million under the TSCA Chemical Risk Review and Reduction program to make significant progress regarding existing chemicals. This includes work on data collection, risk assessment and risk reduction as appropriate. For more information, please see the Chemical Risk Review and Reduction budget justification within the EPA's FY 2013 President's Budget request. The reference to a $36.4 million increase cited in the question is the total increase proposed by the EPA for existing chemicals work throughout the agency.

a: How many of the chemicals EPA intends to use this requested budgetary increase to study have already had this information provided to the European Chemicals Agency (EChA) as part of registration and regulatory program known as the Registration, Evaluation, Authorization, and Restriction of Chemical substances (REACH)?

Answer:
The EPA recognizes the need to avoid duplication of testing and effort whenever possible. The EPA does not currently have an agreement with EChA to access full toxicological studies or use and exposure information submitted under REACH requirements. We understand that such an agreement would require higher level action within the European Community and amongst a wider set of government branches and entities. However, the EPA will continue to work with EChA staff with the goal of obtaining such an agreement. Thus, if the EPA is to use REACH data in screening or assessing chemicals, the data must be obtained from the U.S. companies that submitted the information for REACH. As the EPA identifies specific chemicals for assessment, we encourage companies to provide the agency with any new data on those chemicals that were part of their REACH submission.

The EPA will determine in FY 2013 which chemicals to focus on for gathering information on adverse health and environmental affects in conjunction with our review of information submitted in FY 2012 under the Chemical Data Reporting rule and other already available data. The agency will make maximum use of data already available before asking for additional information from U.S. companies.

b: Of those scientific studies, how many meet Organization for Economic Cooperation and Development (OECD) quality guidelines?

Answer:
Since the EPA does not have access to full toxicological studies submitted under REACH, we are not able to determine how many of the referenced studies meet OECD quality guidelines.

c: How many less chemicals would EPA need to assess if it used OECD compliant analyses on overlapping REACH chemicals?

Answer:
The EPA has already reduced the number of chemicals for which it is developing Hazard Characterizations by making use of information generated through assessments conducted by other member countries of the Organization for Economic Cooperation and Development (OECD). Countries other than the U.S. have agreed to conduct 982 of these assessments. Any data from these studies will be utilized by EPA as appropriate in the course of its work to address existing chemicals.

d: How much would less would EPA need for this budget request if it used OECD compliant analyses of overlapping REACH chemicals?

Answer:
The EPA's FY 2013 President's Budget request is not affected by the availability of data obtained by the European Chemicals Agency (EChA) as part of the Registration, Evaluation, Authorization, and Restriction of Chemical (REACH) program. Those data augment data obtained directly by the EPA in conducting assessments of chemical risks in determining the need for risk management action. Their availability enables the EPA to focus its efforts on assessing the risks of chemicals and to focus data gathering efforts on other existing chemicals that have not been tested for adverse health or environmental effects.

22: In FY 2012, EPA began a more "integrated research approach." This apparently looks at problems "more systematically and holistically."

a. How much money has EPA saved moving to this integrated approach?
b. What does EPA think it is gaining from this approach that it did not previously obtain?

Answer:
The realignment of the EPA's research programs was designed to optimize the Office of Research and Development's (ORD) effectiveness in addressing the nation's highest priority environmental challenges. Consistent with its external review and evaluation of this integrated research approach by the Science Advisory Board (SAB) and the Board of Scientific Counselors (BOSC), the EPA will engage these bodies to conduct cyclical evaluations of the effectiveness of its research programs.
Beginning in 2011, the EPA's research programs were re-designed to be as responsive as possible to the agency's priority needs. Six integrated research programs address the EPA strategic goals, including the EPA's special responsibilities related to homeland security and human health risk assessment. The research programs address a wide span of needs, from future-oriented need based research, to problem-specific research, and technical support. The programs are designed to meet the needs of partner offices within the EPA and to be useful to others who rely upon the EPA's research.

Both the EPA Science Advisory Board (SAB) and the ORD Board of Scientific Counselors (BOSC) strongly support the consolidation and realignment of research programs. In their joint October 2011 letter to the EPA Administrator, the SAB and BOSC stated that consolidation of

the EPA's research programs will bring efficiencies, and will help the EPA communicate how science can be linked to preventing and solving environmental problems. They also observed "a marked increase in transdisciplinary collaboration as well as coordination across ORD programs over the past year." In this constrained resource environment, this new process enables us to more nimbly plan and respond to the highest priority needs, and maximize our efforts to deliver high quality critical research that address the complex environmental challenges facing the Nation.

23: EPA's budget proposal suggests that EPA needs to regulate chemicals in consumer products. Considering that we have a Federal agency already doing this activity, please cite EPA's authority to regulate consumer products.

Answer:
Through multiple sections 4, 5, 6, 7 and 8, the Toxic Substances Control Act (TSCA) grants the Administrator authority to regulate the manufacture, processing, distribution in commerce, use, and disposal of chemical substances and mixtures as necessary to prevent unreasonable risk to human health or the environment.

Under sections 3 and 12 (i.e. – 7 USC 136a and 7 USC 136j) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the EPA is required to regulate consumer pesticides, including many household products, such as household cleaning products that claim to kill or otherwise control germs or other microbes; household, lawn and garden insecticides and herbicides; home-use rodenticides; and swimming pool chemicals.

Although the EPA has clear authority under TSCA and FIFRA to regulate chemicals in consumer products, we have in the past and will continue to coordinate with colleagues at the Consumer Product Safety Commission (CPSC) to ensure we are not duplicating their efforts. Section 9(d) of TSCA requires that the EPA "consult and coordinate with the Secretary of Health and Human Services and the heads of any other appropriate Federal executive department or agency, any relevant independent regulatory agency, and any other appropriate instrumentality of the Federal Government for the purpose of achieving the maximum enforcement of this chapter while imposing the least burdens of duplicative requirements on those subject to the chapter and for other purposes." Furthermore, TSCA Section 10 requires that the EPA cooperate with HHS and other agencies to establish data systems, coordinate on the development of screening and monitoring techniques, establish research programs and, training, and coordinate the exchange of research and development results.

Generally, the EPA defers to the CPSC on matters involving regulation of finished consumer products marketed to the public while the EPA's regulatory authority focuses on chemicals that have been incorporated into the makeup of consumer products or that may become incorporated into consumer products when those products are introduced into the marketplace.

24: Your budget plan states that, in fiscal year 2013, the EPA needs an increase of $36.4 million to transition from a collaborative collection of chemical data with the industry to a more aggressive regulatory tact under the Toxic Substances Control Act (TSCA). Clearly, this request rebuts the argument by some that TSCA is flaccid. Please state all such TSCA authorities the Agency believes will help it:

a: take immediate and lasting action to eliminate or reduce identified chemical risks and develop proven safer alternatives

Answer:
The EPA's FY 2013 President's Budget proposes an increase of $11.1 million under the TSCA Chemical Risk Review and Reduction program to make significant progress regarding existing chemicals. This includes work on data collection, risk assessment and risk reduction. For more information, please see the Chemical Risk Review and Reduction budget justification within the EPA's FY 2013 President's Budget request. The reference to a $36.4 million increase cited in the question is the total increase proposed by the EPA for existing chemicals work throughout the agency.

The EPA is attempting to utilize the array of tools under TSCA to gather adequate data on and address any potential risk presented by chemicals. However, current TSCA authorities place legal and procedural requirements on the EPA before the agency can request the generation and submission of health and environmental effects data on existing chemicals. It has also proven difficult in some cases to take action to limit or ban chemicals found to cause unreasonable risks to human health and the environment.[2]

Consequently, the agency believes that, in addition to exercising current TSCA authorities, it is important to work together to quickly modernize and strengthen the tools available in TSCA to increase confidence that chemicals used in commerce, which are vital to our Nation's economy, are safe and do not endanger the public health and welfare of consumers, workers, and especially sensitive sub-populations such as children, or the environment. We have identified principles[3] regarding these reforms, which include:

1. Chemicals Should be Reviewed Against Safety Standards that are Based on Sound Science and Reflect Risk-based Criteria Protective of Human Health and the Environment.
2. Manufacturers Should Provide the EPA with the Necessary Information to Conclude That New and Existing Chemicals are Safe and Do Not Endanger Public Health or the Environment.

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[2] For more information see:
http://yosemite.epa.gov/opa/admpress.nsf/8d49f7ad4bbcf4ef852573590040b7f6/b8dc53af3572128a852577c80060a28d!OpenDocument
[3] See the following website for more information regarding these principles:
http://www.epa.gov/oppt/existingchemicals/pubs/principles.html

3. Risk Management Decisions Should Take into Account Sensitive Subpopulations, Cost, Availability of Substitutes and Other Relevant Considerations.
4. Manufacturers and the EPA Should Assess and Act on Priority Chemicals, Both Existing and New, in a Timely Manner.
5. Green Chemistry Should Be Encouraged and Provisions Assuring Transparency and Public Access to Information Should Be Strengthened.
6. The EPA Should Be Given a Sustained Source of Funding for Implementation.

Regarding specific provisions, TSCA section 5(a) Significant New Use Rules (SNURs) can be used to require notice to the EPA before either new or existing chemical substances are used in new ways that might create concerns.

TSCA section 6 (a) provides for the regulation of chemical substances and mixtures that present or will present unreasonable risk.

Authorities for taking action to eliminate or reduce risks include the following additional TSCA provisions: section 5(e) provides for orders for regulation pending development of information; section 5(f) provides protection against unreasonable risks; section 6(b) provides for quality control orders; section 6(e) provides for regulation of PCBs; section 6(f) provides for regulation of mercury; section 7 provides for regulation of imminent hazards; and section 601 provides formaldehyde standards for composite wood products.

b: fill gaps in exposure data;

Answer:
TSCA section 4 provides that the EPA can issue rules to require companies to conduct testing on chemical substances and mixtures to generate data with respect to health and environmental effects, provided certain statutory findings can be made. Although section 4 is most commonly thought of as requiring health effects data, it can also be used to require certain chemical data necessary to estimate exposure.

TSCA section 5 provides for pre-manufacturing reporting requirements.

TSCA section 6 provides recordkeeping requirements.

TSCA section 8(a) Information Gathering authority provides for the collection of production volume and other information.

TSCA section 11 provides for inspections and subpoenas.

In addition, submission under other provisions of TSCA may in some cases be relevant to estimating exposure.

c: conduct detailed chemical risk assessments on priority chemicals;

Answer:
In order to conduct detailed risk assessments, the EPA needs to obtain robust hazard and exposure data sets. Where these are lacking, TSCA section 4 provides that the EPA can issue rules to require companies to conduct testing on chemical substances and mixtures to generate data with respect to health and environmental effects, provided certain findings can be made.

TSCA section 5 pre-manufacture reporting requirements include available information relevant to assessing risk.

TSCA section 8(a) Information Gathering authority provides for the collection of production volume and other information.
TSCA section 8(c) authorizes the EPA to require companies to report allegations of significant adverse reactions to chemicals.

TSCA section 8(d) authority can be used to require the submission to the EPA of unpublished health and safety studies.

TSCA section 8(e) requires that companies submit to the EPA any substantial risk information they obtain on their chemicals.

TSCA section 11 gives the EPA the authority to access relevant information during inspections and to use subpoenas to require witnesses to testify and, production of documents and answers to questions.

d: inform and support development and implementation of risk management actions; and

Answer:
TSCA section 4 provides that the EPA can issue rules to require companies to conduct testing on chemical substances and mixtures to generate data with respect to health and environmental effects.

TSCA section 5(a) Significant New Use Rules (SNURs) can be used to require notice to the EPA before either new or existing chemical substances are used in new ways that might create concerns.

TSCA section 6 provides recordkeeping requirements.

TSCA section 8 provides for the collection and maintenance of records and reports.

TSCA section 11 gives the EPA the authority to access relevant information during inspections and to use subpoenas to require witnesses to testify and production of documents and answers to questions.

e: prevent introduction of unsafe new chemicals into commerce.

Answer:
TSCA section 5 requires anyone who plans to manufacture or import a new chemical substance for a non-exempt commercial purpose to provide the EPA with notice before initiating the activity. This pre-manufacture notice, or PMN, must be submitted at least 90 days prior to the manufacture or import of the chemical. The EPA can use TSCA section 5(a) Significant New Use Rules (SNURs) to require notice to the EPA before either new or existing chemical substances are used in new ways that might create concerns.

Section 13 of TSCA, and Customs and Border Protection regulations under that section, provide for certification that imported chemical substances and mixtures are in compliance with TSCA.

25: EPA's fiscal year 2013 budget plan requests an increase in discretionary funding of $11 million for a program, called "Enhancing Chemical Safety," to initiate, continue, and complete actions to reduce chemical risks; assess chemical risks; and obtain needed information on potentially hazardous chemicals.

a: By what authority does the Agency intend to carry out these functions?

Answer:
The EPA will use all of the authority granted by specific sections of the Toxic Substances Control Act (TSCA) to initiate, continue, and complete actions to reduce chemical risks, assess chemical risks, and obtain needed information on potentially hazardous chemicals. See the answer to question 24 for a listing of applicable authorities under TSCA.

b: Does EPA believe it should approve manufacturing processes, chemicals generated, and resultant products in the United States?

Answer:
The EPA evaluates both new and existing chemicals for safety. This evaluation should include a careful examination of the potential hazards and the exposure scenarios. Our current approach is to use all the authority granted by specific sections of TSCA as necessary through a multi-pronged approach:

- Filling information gaps on existing chemicals through a range of TSCA information gathering tools (including the Chemical Data Reporting rule and test rules), and expanding electronic reporting and increasing transparency, providing a sustainable chemical safety information pipeline to support future assessments and risk management actions;
- Screening and assessing human health and environmental risks posed by existing chemicals, using data from all available sources; and

- Eliminating, reducing, or managing identified chemical risks using all available authorities under TSCA and other statutes.

The EPA will continue to work with industry and other stakeholders to obtain needed data through the most efficient and effective means to ensure we can use the best science to advance the safety of chemicals.

c: Please cite the specific statutory authority EPA authority to make these decisions.

Answer:
The EPA will use all of the authority granted by specific sections of TSCA to initiate, continue, and complete actions to reduce chemical risks, assess chemical risks, and obtain needed information on potentially hazardous chemicals. See the answer to question 24 for a listing of applicable authorities under TSCA. For example, TSCA Section 5(a) Significant New Use Rules (SNURs) can be used to require notice to the EPA before either new or existing chemical substances are used in new ways that might create concerns. TSCA Section 6 provides for the regulation of chemical substances and mixtures that present or will present unreasonable risk. The EPA will attempt to use Section 6 where appropriate.

26: Title IV of the Public Health Security and Bioterrorism Preparedness and Response Act provided EPA with its only statutorily granted authority for homeland security related activities – and these were cabined to drinking water protection. The proposed budget recommends $164.4 million for Chemical Safety and Sustainability, Human Health Risk Assessment, and Homeland Security Research Programs in FY 2013.

a: How much of that will be used for specific homeland security activities?

Answer:
The EPA's FY 2013 Homeland Security Budget Request is $102.3M, which includes $40M in S&T funding for homeland security research activities.

The EPA's FY 2013 budget request includes $94.2M for Chemical Safety and Sustainability program research activities and $43.8M for Human Health Risk Assessment program activities, which are not homeland-security related activities.

b: How much of that amount will be dedicated to fund provisions contained in Title IV of the Public Health Security and Bioterrorism Preparedness and Response Act?

Answer:
Of the total FY 2013 Homeland Security request, $20.6M will be dedicated to addressing drinking water and wastewater security, and safety and associated research provisions contained in the Bioterrorism Act in FY 2013.

c: Which other explicitly authorized duties related to homeland security activities are proposed to be funded by this amount?

Answer:
In addition to research proposed in support of the agency's duties under the Bioterrorism Act, proposed homeland security research supports the agency's detection, preparedness, response, and recovery responsibilities related to chemical, biological, or radiological attacks, as authorized under Homeland Security Presidential Directives 7, 9, 10, and 22; National Response Framework Emergency Support Function #3 and #10; CERCLA; TSCA; RCRA; FIFRA; Homeland Security Act of 2002; and Post-Katrina Emergency Management Reform Act of 2006; among others.

d: Please state which offices at and programs operated by the Department of Homeland Security (DHS) need EPA's expertise (page 113 of the Congressional Justification).

Answer:
The EPA's homeland security research provides technical support on the science of drinking water and wastewater systems to the DHS National Protection and Programs Directorate's efforts to coordinate critical infrastructures. The EPA's homeland security research also provides technical expertise to several programs operated by DHS' Science and Technology Directorate, including the threat risk assessment program and their coordination role for the Integrated Consortium of Laboratory Networks. The EPA often offers its technical knowledge to the DHS in various workgroups. In addition, following the terrorist attacks of September 11, 2001, and the mailing of anthrax-contaminated letters later that year, legislation and Homeland Security Presidential Directives (HSPDs) assigned specific and unique responsibilities to the U.S. Environmental Protection Agency (EPA) associated with protecting against, detecting, and recovering from terrorist acts involving chemical, biological and radiological (CBR) agents:

1. The EPA is the federal government Sector Specific Agency (SSA) responsible for assisting utilities to protect water systems and detect and recover from terrorist attacks. The EPA conducts research on detection, mitigation and cleanup of contamination in water systems.
2. The EPA is responsible for decontaminating buildings and outdoor areas impacted by a terrorist attack. EPA researchers develop sampling, analytical and risk assessment methods.
3. The EPA is responsible for developing a nationwide laboratory network to support routine monitoring and response requirements. EPA researchers develop technologies and strategies to clean up contamination and manage wastes so that clean up is effective while allowing prompt re-entry of the public and businesses.

The EPA's Homeland Security Research Program (HSRP) has developed a suite of data and tools (SPOT and CANARY) for the EPA's Water Security Initiative (WSI), which are now being used in five WSI pilot cities (Cincinnati, New York, Philadelphia, San Francisco and Dallas), and at many other utilities. They were recognized for their ground-breaking innovation with an R&D 100

Award (2010) and as a finalist for the prestigious Franz Edelman Award for Operational Research. In addition, the Program's research on anthrax clean approaches was essential to decisions that the EPA and state officials made in how to clean up the recent natural anthrax contamination cases of buildings in Connecticut and New Hampshire (2008-10). Finally, the Program's radiological cleanup research was integral to planning and down-selection of technologies for the national Liberty-RadX exercise (2010).

27: In September 2011, EPA held a stakeholder dialogue on prioritization of chemicals for further evaluation and possible risk management. While this was an important step by the Agency to be more transparent about its prioritization process, it has not made the criteria applied for that process transparent.

a: Will EPA develop a long-term prioritization process under the Office of Chemical Safety and Pollution Prevention? If so, when?

Answer:
The September stakeholder dialogue was conducted to gather stakeholder input on proposed criteria and data resources to be used for identifying chemicals for further assessment. The EPA refined the criteria to reflect stakeholder input and, on March 1, 2012, the EPA identified a work plan of 83 chemicals for further assessment under the Toxic Substances Control Act (TSCA) – the TSCA Work Plan.
(http://www.epa.gov/oppt/existingchemicals/pubs/workplan.html) The agency also made the methodology and criteria available at that time
(http://www.epa.gov/oppt/existingchemicals/pubs/wpmethods.pdf).

b: Will EPA make its criteria and processes for prioritizing chemicals transparent? If so when?

Answer:
The EPA posted the Methods Document describing the criteria and process the agency used to identify chemicals within the TSCA Work Plan to its website on March 1, 2012
(http://www.epa.gov/oppt/existingchemicals/pubs/wpmethods.pdf).

c: In fiscal year 2013, will EPA be proposing or implementing a prioritization and screening process for all chemicals in U.S. commerce? If not, why not?

Answer:
As part of the EPA's comprehensive approach to enhance the agency's existing chemicals management program, in March 2012, the EPA identified a work plan of 83 chemicals for further assessment under the Toxic Substances Control Act (TSCA). On March 1, 2012, the EPA identified seven of these chemicals for risk assessment in 2012. On June 1, 2012, the EPA identified 18 more of these chemicals for assessment in 2013 and 2014. The EPA intends to use the TSCA Work Plan Chemicals to help focus and direct the activities of the Existing Chemicals Program over the next several years.

d: Please explain whether, if EPA does engage in longer term prioritization of chemicals in commerce, EPA will engage in dialogue with all stakeholders about this topic.

Answer:
The EPA did engage in dialogue with stakeholders and input was reflected in the methodology published in March, 2012.

e: What are the most important characteristics for the agency to include in a comprehensive, long term screening-level prioritization process employed by EPA?

Answer:
The EPA's screening process, as reflected in the TSCA Work Plan Chemicals Methods Document (http://www.epa.gov/oppt/existingchemicals/pubs/wpmethods.pdf), must be transparent and incorporate risk-based criteria protective of human health and the environment. As identified both by the agency and by stakeholders who commented on the Work Plan Chemicals identification process, key criteria for screening include: carcinogenicity; persistent, bioaccumulative, and toxic (PBT) characteristics; potential concerns particularly for children's health, including reproductive, developmental, and neurotoxicity; use in consumer products and potential for exposure as indicated by such factors as use in children's products, presence in human or environmental biomonitoring, and significant releases from manufacturing, processing, or patterns of product use and disposal based on information provided in the Toxics Release Inventory and the Inventory Update Rule database.

28: When reviewing the newly developed screening battery of test methods for EPA's Endocrine Disruptor Screening Program (EDSP), EPA's Science Advisory Board recommended that, after the initial round of screening is completed, the Agency should analyze the results to determine how well or poorly each of the 11 screening methods has performed, have this analysis undergo scientific peer review, and then make any changes needed in the screening battery before pushing on to screening additional substances. Considering EDSP screening costs can be more than $500,000 per substance, and that the results of the first round of screening from EPA's issuance of 67 test orders in 2009 and early 2010 will be completed by August or September, please state whether you plan to follow the SAB recommendation in early FY 2013 before issuing additional endocrine screening test orders? If not, why not?

Answer:
In accordance with the Federal Food, Drug and Cosmetic Act (FFDCA) section 408(p), the agency will continue to require appropriate validated scientific methods when issuing additional Tier 1 screening orders. The agency intends to follow the Science Advisory Board's (SAB) recommendation to "convene a panel of independent scientists to review all the screening data for 50-100 compounds, with an eye towards revising the process and eliminating those methods that don't work." (U.S. EPA Report, Joint Subcommittee of the Science Advisory Board and Scientific Advisory Panel, *Review of the EPA's Proposed Environmental Endocrine Disruptor Screening Program*, July 1999). To that end, the agency plans to conduct a thorough scientific

review of the Tier 1 assay results, the individual assays and the collective Tier 1 battery performances. The EPA's comprehensive scientific evaluation of the Tier 1 screening assays will occur in the Fall of 2012, and will include external scientific peer review by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) in Fall of 2013.

It is our intention to fully utilize recommendations received from the SAB and FIFRA SAP to guide our implementation of the EDSP.

29: Between 1998 and now, I have been told chemical manufacturers provided EPA screening level data and information on 2,200 high production volume chemicals -- representing more than 95% of all chemicals in commerce today, by volume.

a: How has the Agency made use of the high production volume data and information to date?

Answer:
There are approximately 2,200 sponsored high production volume (HPV) chemicals. The EPA is developing hazard characterizations, published on the EPA's website, for those chemicals sponsored through the HPV Challenge Program. To date, the EPA has reviewed and posted hazard characterizations for approximately 1,150 HPV chemicals. A hazard characterization is an initial step that the EPA completes in assessing chemicals for potential risks to human health and the environment. The EPA uses the data collected to determine potential hazards of a chemical or a chemical category which may pose risks to human health and the environment. These characterizations help inform and support the identification of appropriate actions to manage such risk.

b: Will the Agency make better use of this data and information to prioritize chemicals for further evaluation and assessment?

Answer:
The hazard characterizations for HPV chemicals will continue to be used by the EPA as part of its screening process to determine whether and how chemicals should be prioritized for further assessment and potential risk management action.

30: EPA's budget states that the agency will develop 450 hazard characterizations "using the data obtained through TSCA test rules." Many high production volume substances have been registered under REACH, the European chemicals management program. In 2010, the EPA and the European regulatory authorities entered into a Statement of Intent to share and exchange information concerning hazard and risk assessment of chemical substances.

a: Has this EPA-European agreement required further development and elaboration? Has it occurred?

Answer:
A Statement of Intent is in place between the U.S. EPA and the European Chemicals Agency. The SOI provides for the sharing of information on our respective chemical safety programs and on technical approaches to assessing chemicals, but does not provide for the sharing of information beyond what is authorized by our respective domestic legal authorities. The EPA, therefore, cannot access many EU toxicological studies or use and exposure information submitted under REACH requirements because they are considered confidential or proprietary[4]. ECHA is not authorized to share confidential or proprietary studies with non-EU governments. The EPA will, therefore, not be able to consider such REACH data in order to complete hazard characterizations unless those data are provided directly by the submitting company to the U.S. EPA. The EPA will use all available information to develop hazard characterizations.

b: What is EPA doing about formalizing that agreement to make full use of the information on high production volume and other substances so as not to waste resources by requiring duplicative information from industry?

Answer:
As noted above, a Statement of Intent is in place between the U.S. EPA and the European Chemicals Agency. The SOI provides for the sharing of information on our respective chemical safety programs and on technical approaches to assessing chemicals, but does not provide for the sharing of information beyond what is authorized by our respective domestic legal authorities. The EPA, therefore, cannot access many EU toxicological studies or use and exposure information submitted under REACH requirements because they are considered confidential or proprietary[5]. ECHA is not authorized to share confidential or proprietary studies with non-EU governments. The EPA will, therefore, not be able to consider such REACH data in order to complete hazard characterizations unless those data are provided directly by the submitting company to the U.S. EPA. The EPA will use all available information to develop hazard characterizations.

31: Has EPA budgeted additional dollars for its Chemical Action Plans under the Toxic Substances Control Act for fiscal year 2013?

Answer:
The EPA will continue to implement in FY 2013 risk management actions associated with the ten Action Plans published from 2009 through 2011, as described in detail in the Chemical Risk Review and Reduction (CRRR) program section of the FY 2013 President's Budget. The EPA will use the TSCA Work Plan[6] to inform our work on additional chemicals going forward.

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[4] http://yosemite.epa.gov/opa/admpress.nsf/0/39E0AC05307F270A852577FC0068C184
[5] http://yosemite.epa.gov/opa/admpress.nsf/0/39E0AC05307F270A852577FC0068C184
[6] The TSCA Work Plan and information about its development may be found at http://www.epa.gov/oppt/existingchemicals/pubs/Work_Plan_Chemicals_Web_Final.pdf

a: Please explain EPA's intention regarding these Action Plans (i.e. are they continuing or being abandoned for something different)? If so, please explain.

Answer:
The EPA will continue to implement in FY 2013 risk management actions associated with the ten Action Plans published from 2009 through 2011, as described in detail in the CRRR program section of the FY 2013 President's Budget. The EPA will use the TSCA Work Plan to continue to screen and identify future chemicals as candidates for risk assessment and will pursue data collection and risk reduction actions as warranted by the results of those screening and assessment activities.

In March 2012, the EPA identified 83 chemicals for further assessment under the Toxic Substances Control Act (TSCA) under its TSCA Work Plan. For more information, see http://www.epa.gov/oppt/existingchemicals/pubs/workplan.html. The EPA selected seven of those chemicals for risk assessment in FY 2012. The EPA has identified an additional 18 of the 83 chemicals found in the TSCA Work Plan for assessment in FY 2013 and FY 2014.[7] In FY 2013, the EPA will complete the assessments commenced in FY 2012 and initiate additional assessments for chemicals identified for FY 2013 and 2014.

b: Please state whether and for which chemical substances or mixtures EPA intends to issue a chemical action plans in fiscal year 2013.

Answer:
The EPA intends to use the TSCA Work Plan to help focus and direct the activities of the Existing Chemicals Program over the next several years. The EPA intends to use this framework to identify an additional set of chemicals for assessment in FY 2013. The EPA will conduct risk assessments on these chemicals and will pursue risk reduction measures if needed, based on the results of those risk assessments.

Congresswoman McMorris Rodgers:

1: Administrator Jackson, as you know, this past December, Solicitor General Verrilli was asked to obtain and present the position of the federal government as it relates to the Ninth Circuit's 2010 decision in *NEDC v. Brown*. This decision overturned 35 years of EPA policy in treating storm water runoff from forest roads as a point source under the Clean Water Act.

What is or will be the EPA's position and what is the EPA's current policy while the petitions are pending before the Supreme Court?

Answer:
The Department of Justice (DOJ) is reviewing the petition to the Supreme Court and is expected to provide the federal government's position in late May.

[7] http://www.epa.gov/oppt/existingchemicals/pubs/workplanlist.html

2: Administrator Jackson, what percentage of your budget is being used to analyze the economic impact, including number of jobs created or lost, of the regulations being promulgated by the EPA?

Answer:
Consistent with relevant Executive Orders, the EPA estimates the benefits and costs of all of its economically significant rules. The EPA's regulatory impact analyses often contain hundreds of pages of detailed work which draws heavily on peer-reviewed literature to estimate both the economic costs and benefits of our rules. Wherever we are allowed to do so by the statute, we carefully consider the cost of our rules to try to find approaches that reduce cost and increase flexibility, thus reducing potential negative economic impacts from our regulations-whether on employment or any other facet of the economy. Because opportunities to analyze flexibility, costs, and economic impact are spread throughout the regulatory development process, and many different EPA national program and regulatory support offices (e.g., Office of General Counsel, Office of Policy, Office of Enforcement and Compliance Assurance) contribute to these analyses, it is not possible to provide an exact estimate of how much of the budget is devoted to these activities.

Beyond regulatory development, the EPA invests in new models to better quantify impacts of regulations as well as technologies that can help achieve those regulations more affordably (which can then be included in regulatory analyses for future rules). Nevertheless, the EPA is keenly aware that these are tough economic times and that is why we have been performing quantitative employment analyses on economically significant rules more often than in the past. For example, we included quantitative employment impact analysis in our proposals for our rules on industrial boilers, mercury and air toxics from power plants, and our cross-state air pollution rule -providing far more employment analysis compared to similar rules a few years ago.

3: In your budget, you indicate that there is a funding increase for hydraulic fracturing? Could you describe in greater detail – what is the basis for the increase? Isn't it premature given the study that's being conducted? And, isn't this duplicative of other agency efforts such as BLM?

Answer:
The EPA's FY 2013 President's Budget request of $14M includes $8M to fund scientific research on the potential impacts of hydraulic fracturing on air quality, water quality, and ecosystems. Funding for this research addresses different scientific questions than those that provide a framework for the EPA's current study on the potential impacts of hydraulic fracturing on drinking water resources. The EPA has identified the need for study of potential impacts on air quality, water quality, and ecosystems, based on concerns expressed by stakeholders during the development of the drinking water study, and on the fact that there are few peer reviewed studies on these issues. Additionally, members of the EPA's Science Advisory Board also recommended that the EPA conduct research relating to potential ecosystem impacts during

their review of the EPA's "Plan to Study the Potential Impacts of Hydraulic Fracturing on Drinking Water Resources." Beginning in FY 2013, these concerns and knowledge gaps will be addressed in the EPA's research on the potential impacts of hydraulic fracturing on air quality, water quality, and ecosystems.

On April 13, the EPA, the DOI (including USGS), and the DOE announced a new partnership to help coordinate their scientific efforts to ensure there is no duplication. The primary goal of this effort will be to identify research topics where collaboration among the three agencies can be most effectively and efficiently conducted to provide results and technologies that support sound policy decisions by the agencies responsible for ensuring the prudent development of energy sources while promoting safe practices and human health. On the same date, an Executive Order was issued to create a new Interagency Working Group to Support Safe and Responsible Development of Unconventional Domestic Natural Gas Resources, which will further enable interagency coordination.

4: Administrator Jackson, I would like to follow up on efforts by my colleagues in the Senate to clarify EPA's plans as it relates to financial assurances under Section 108(b) of CERCLA. As you know, financial assurance programs for hard rock mining have been effectively implemented by BLM and USFS in coordination with states. In fact, the Western Governors Association expressed strong opposition to EPA's involvement in this program. Would you confirm EPA's position as it relates to this program and that no funds will be used to implement a future program?

Answer:
CERCLA 108(b), which addresses financial responsibility requirements, was included when CERCLA was enacted in 1980. A court decision, later amended, (Sierra Club v. Johnson No. 08-01409 (N.D. Cal. Feb 25, 2009)) directed the EPA to identify and publish notice of classes of facilities that would be priority for action as specified in CERCLA Section 108(b)(1). The notice of priority appeared in the Federal Register on July 28, 2009. See 74 Fed. Reg. 37213. CERCLA Section 108(b) provides that the President "shall promulgate requirements...that classes of facilities establish and maintain evidence of financial responsibility consistent with the degree and duration of risk associated with the production, transportation, treatment, storage, or disposal of hazardous substances."

The EPA selected the hardrock mining and mineral processing industry for financial assurance rules based on a number of considerations, including the amounts of hazardous substances released into the environment, number and scale of the operations, corporate structure and bankruptcy potential, and the enormous documented expenditures to address hardrock mining sites.[8] In fact, according to a 2008 GAO investigation, for the ten year period between fiscal years 1998 through 2007, the Federal government spent at least $2.6 billion remediating

[8] *See* Identification of Priority Classes of Facilities for Development of CERCLA Section 108(b) Financial Responsibility Requirements, 74 Fed. Reg. 37213-19 (July 28, 2009)

abandoned hardrock mining facilities.[9] The EPA's Superfund program spent the most, at $2.2 billion, addressing mining facilities on private lands that were not subject to, or only partially subject to, the BLM and Forest Service financial assurance regimens. The agency is developing regulations under CERCLA 108(b) at this time to reduce the potential future burden on the taxpayers to clean up Superfund sites.

According to stakeholders and based upon the EPA's experience, financial responsibility requirements can also provide an economic incentive for those responsible for a facility to conduct their operations in a way that lessens the risk to human health and the environment. The EPA is working cooperatively with BLM, the Forest Service, as well as the States to avoid duplicative requirements, and examining their programs in this light as we develop our rulemaking. The proposed rule is currently scheduled for spring 2013, and the final rule would not be expected before fall of 2014. Any financial assurance requirements set forth under such a rule pursuant to CERCLA 108(b) would be required at a date to be determined following the issuance of a final rule.

The EPA notes that the Conference Report accompanying the FY 2012 Appropriations Act (H.Rpt. 112-331), directed the Administrator to "collect and analyze information from the commercial insurance and financial industries regarding the use and availability of necessary instruments (including surety bonds, letters of credit, and insurance) for meeting any new financial responsibility requirements and to make that analysis available to the House and Senate Committees on Appropriations and to the general public on the agency website 90 days prior to proposing any rule pursuant to section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980...." The EPA will conduct an analysis of the use of instruments and the available capacity within the financial industry to provide the financial assurance that would be required to meet the proposed rule and will provide that analysis to the Congress and the public 90 days before that regulation is proposed, as directed in the Conference Report.

Congressman Terry:

1: The conference report for the Interior/EPA Appropriations bill for FY 2012 included report language expressing concern about the implementation of regional haze rules and directed the agency to work more collaboratively with the states. What have you done as an agency in response to the committee's guidance? It is a concern that so many states continue to face EPA as an adversary instead of a partner in this process.

Answer:
The EPA has been collaborating with the states and with their regional planning organizations since 1999 on the development of regional haze plans. Our preference has always been to allow

[9] GAO Report (GAO-08-574T), "Information on Abandoned Mines and Value and Coverage of Financial Assurance on BLM Land"

states that are moving forward to complete their work, and then to give due deference to the emission controls decisions that they reach based on accurate technical information. In fact, we have fully approved the plans for California, Delaware, Kansas, the District of Columbia, Maine, South Dakota, and New Jersey. The agency has proposed to fully approve the Colorado, Rhode Island, Connecticut, Vermont, New Hampshire, and Massachusetts plans.

At this point, the EPA is under consent decree deadlines to act on the remaining state plans that have been submitted, and in a few cases to promulgate plans for states that did not submit any plan. In several other states, we are moving towards approval of the plans except with respect to the plans' reliance on the now-remanded Clean Air Interstate Rule; for these states, we have proposed a "housekeeping" federal plan to substitute reliance on the Cross State Air Pollution Rule, an approach that will not result in any additional control requirements for any power plants in these states solely for regional haze purposes. We are working with several states on expedited revisions to their plans to allow them to be approved, including Minnesota, Nevada, Tennessee, and New York. For states in which the agency has issued only partial approvals, we are continuing to work with these states to correct any deficiencies. In rare instances where deficiencies cannot be addressed by consent decree deadlines, the EPA is meeting its regional haze rule obligations by issuing Federal Implementation Plans (FIPs). States have the option of revising their state plans at any time and submitting them to the EPA. Upon approval, the EPA will withdraw the FIP.

2: The implementation of regional haze rules has become highly controversial. Many states believe that EPA has overstepped its bounds in its disapproval of state implementation plans, despite the fact that these plans that make significant improvements in visibility. In some cases, the EPA has proposed alternatives that cost hundreds of millions of dollars for improvements that cannot be detected by the human eye. In this time of tight budgets, these disputes do not seem to be a good use of resources at the agency. Please comment.

Answer:
The Regional Haze requirements were established in 1999 and state plans were due in 2007. As of 2009, 37 states, the District of Columbia, and the U.S. Virgin Islands had failed to submit all or a portion of their Regional Haze state plans. The states and the EPA have since made considerable progress, with the EPA having either proposed or taken final action on regional haze plans for the majority of states. Nearly all of the actions are expected to be final by November 2012. Visibility improvement and cost effectiveness of controls are two of the statutory factors that the EPA weighs when reviewing regional haze plans. In the few cases where state plans have not fully met the requirements of the regional haze rule, the EPA is working with the states to correct any deficiencies. In some instances, however, the EPA is legally obligated to issue its own plan to address the regional haze rule requirements.

Congressman Burgess:

1: Are you familiar with the UN Department of Economic and Social Affairs Division for Sustainable Development's Agenda 21?

Answer:
Yes. Agenda 21 was negotiated under President George H.W. Bush's Administration at the United Nations Conference on Environment and Development in 1992. It is a non-binding document that guides actions that can be taken by organizations of the United Nations System, Governments, and all sectors of society, at global, national, and local levels to advance sustainable development.

a: How much money has EPA dedicated to carrying out initiatives aimed at supporting Agenda 21? Please identify all programs and initiatives within EPA which support or further the initiatives of Agenda 21.

Answer:
The EPA carries out its core mission to protect public health and the environment, address air and water pollution, ensure the safety of chemicals, provide for the strong enforcement of environmental standards, and remediate contaminated sites for all Americans. While EPA programs and initiatives are not designed specifically to support or further Agenda 21, some of the aspirational goals set forth in the 1992 Agenda 21 document are consistent with the EPA's mandate and mission. Agenda 21 is comprised of 40 chapters of which 11 chapters overlap significantly with the EPA's mission while other chapters share some relevance. Within each chapter, there are several "objectives" (both overarching and issue specific) as well as headings for "activities" and "means of implementation."

For example, chapter 8 of Agenda 21 supports the development of economic and environmental impact assessment procedures, which the United States began under the National Environmental Policy Act (NEPA) of 1969. The EPA complies with NEPA, and reviews and provides comments on NEPA documents prepared by other federal agencies. Another example is the regulation of hazardous waste, which the EPA regulates under the Resource Conservation and Recovery Act (RCRA) of 1976, and is also addressed in chapter 20 of Agenda 21. U.S. legislation is reflected in some of the environmental language of Agenda 21. With regard to United States Government participation in conferences and negotiations that may in a broad sense relate to the aspirations announced in Agenda 21, EPA contributes expertise to delegations led by the Department of State when EPA's mandate and competencies are appropriate to further U.S. policy objectives.

2: Are you aware of the GAO Study currently ongoing regarding Title 42 pay and the administration's misuse of the statute?

Answer:
The EPA is aware of the GAO audit currently ongoing. The stated purpose of that audit is to analyze the extent to which the HHS and the EPA have used Title 42 authority, Sections 209(f) and 209(g) since 1999; evaluate the internal controls HHS and the EPA have in place to oversee the use of Title 42 sections and the extent to which they are applied; determine the extent to which HHS has the authority to compensate Title 42 appointments at a rate over federal salary caps and compare compensation for employees hired under Title 42 sections to those caps; and

determine the extent to which the EPA can use this authority if derived under a reorganization of functions that previously belonged to the HHS.

a: Has anyone from GAO contacted you or anyone else at EPA?

Answer:
GAO has been working with the EPA through the designated EPA GAO liaisons.

b: Have you reviewed how your agency is using the statute?

Answer:
In 2009-2010, the National Research Council (NRC) conducted a review of the EPA's Title 42 Program and concluded that Title 42 is helping the EPA to achieve its mission, identify and hire outstanding candidates, and retain top scientists. NRC noted that the Office of Research and Development's (ORD's) senior management has taken a deliberate approach in determining how to use the authority to address its workforce needs. NRC noted that "The Title 42 program at EPA is small and still evolving, but it has worked well." Also, the NRC recommended that "permanent Title 42 authority be granted to the EPA... [and] that the EPA be granted expanded authority to define the number of Title 42 positions on the basis of its programmatic needs and available budget."

c: Have you discussed the Title 42 program with anyone at HHS? Have you reviewed their new guidance regarding the program?

Answer:
The Office of Research and Development has conferred with HHS on the Title 42 program from time to time over the years to discuss program implementation, statutory authorities, and other issues. NIH has not shared a copy of their new guidance with EPA.

3: Have you approached the Energy & Commerce Committee for permanent authority similar to Title 42 for your agency, or do you intend to continue to end-run the committee and receive authority through appropriations bills?

Answer:
The 2006 Appropriations Act provided EPA with Title 42 authority.

4: When EPA is recruiting people, the use of Title 42 is meant to be used only if the position cannot be filled using Title 5. Your answer to my questions from September of last year suggested you used Title 42 before even attempting to fill positions under Title 5. Is this the case? For each of the positions you have filled using Title 42, please demonstrate for each, individually and separately, the following:

a: How you attempted to fill the position using Title 5.
b: How many applicants applied for the position under Title 5.

c: If you were unable to fill the position using Title 5, please demonstrate, for each position which was ultimately filled using Title 42, why you were unable to fill that position using Title 5 hiring and pay.

Answer:
EPA is not required by statute or regulation to recruit a position under Title 5 before recruiting under Title 42. Therefore, EPA has not established this as part of the Title 42 program. As noted in the National Research Council (NRC) of the National Academies' 2010 study of EPA's use of Title 42 authority, ORD's senior management has taken a deliberate approach in determining how to use the Title 42 authority to address its critical scientific workforce needs. The agency considers the following factors in its decision to utilize Title 42 authority to recruit for positions:

- The need to hire individuals with *substantial scientific accomplishments* in order to quickly develop needed research capabilities and address critical research and science requirements.
- The need to utilize the flexibilities offered by Title 42, but not offered by other hiring mechanisms, such as those under Title 5, to enable the agency to more effectively compete for the needed talent. This includes the ability to take into consideration the labor *market pay for similar positions and/or expertise* to determine, for example, the pay advertised in vacancy announcements. This can enhance the agency's ability to attract top talent who would otherwise not be interested in applying, resulting in a more robust and quality candidate pool. Also, this can enhance the agency's ability to more effectively hire top candidates for the positions, especially if they are considering competing offers from other entities.

In its 2000 report, "Strengthening Science at the U.S. Environmental Protection Agency," the National Research Council (NRC) recommended that EPA "seek authority to create and fill positions similar to NIH Title 42 senior research appointments." In response to this report, EPA formed a task group to study and address this recommendation. In 2001, the task group completed its study and in its report concluded that to "strengthen its research program and maintain the flexibility to inform regulatory decisions on emerging environmental issues, the EPA needs legislative authority that permits the establishment of competitive, renewable term appointments for outstanding research scientists and engineers." The task group further stated that this authority would "establish senior-term positions to fill critical investigative and research management roles."
As a result of these external and internal studies, EPA sought and received special legislation to make appointments under Title 42 in FY 2006 and established the Title 42 program. EPA's current authority provides for a maximum of 30 appointments at any one time between fiscal years 2006 and 2015. EPA's Title 42 special pay and hiring authority enables the Research and Development program to effectively compete with private sector and other federal agencies, such as the National Institutes of Health, National Science Foundation, and Food and Drug Administration, currently using Title 42 authority or a similar authority, for established and

recognized scientists and engineers to fill critical senior-level investigator and research management positions.

In 2009-2010, the NRC conducted a review of EPA's Title 42 Program and concluded that Title 42 is helping EPA to achieve its mission, identify and hire outstanding candidates, and retain top scientists. The NRC recommended that "permanent Title 42 authority be granted to EPA... [and] that the EPA be granted expanded authority to define the number of Title 42 positions on the basis of its programmatic needs and available budget." NRC noted that the Office of Research and Development's (ORD's) senior management has taken a deliberate approach in determining how to use the authority to address its workforce needs. NRC cited ORD's use of Title 42 appointments for Drs. Judson, Shah, Knudsen, and Kavlock to develop the National Center for Computational Toxicology as an "excellent example of how such appointments can be used to build new capacity and advance the state of science."
In response to the recommendations from NRC's review, in addition to requesting a change in the current authority, EPA is taking a number of actions to enhance use of the Title 42 authority. In the recruitment and selection process, EPA:

- Used market salary data to justify positions and inform compensation decisions,
- Strengthened the candidate search process, including promoting diversity in the process,
- Added flexibility with doctoral-level degree requirements, and
- Required Assistant Administrator review of final selections.

EPA also is undertaking the following enhancements to ensure the Title 42 program continues to produce effective results:

- Improving performance management,
- Formalizing the term renewal process, and
- Establishing a process to conduct periodic program reviews.

5: Your CFO testified before this committee last October that you had a large amount of unobligated funds sitting in your coffers. She made a commitment to this committee that she would work to tighten up those figures and provide us with more transparency. What have you done as Administrator to ensure those funds are being used before you come back to congress asking for more money?

Answer:
Under my direction as Administrator, we have worked diligently on understanding and addressing the issue of unobligated balances. We have raised the visibility of this important issue both internally and with our partners. Fund utilization gets the dollars to work creating jobs and accelerating the pace of environmental progress. From the agency's FY 2011 Financial Statements, Statement on Budgetary Resources, the agency has reduced its total unobligated balances from $4.6 billion at the end of 4th Quarter FY 2010 to $3.5 billion at the end of 4th

Quarter FY 2011, an approximate 24 percent reduction. The most significant challenge lies in the STAG account including in Categorical Grants to States and the State Revolving Funds (SRFs). These programs are large and complex and there are a myriad of issues that can hold up the obligation of funds. To address, we have been working closely with the states to identify best practices to help expedite the grant application and award process and get resources into the hands of those charged with on-the-ground efforts to protect human health and the environment that are so critical to the environmental and economic health of our communities.

6: You indicated during your testimony that you have not granted a waiver for the existing stock of Primatene Mist to be sold until FDA can approve a similar OTC equivalent of Primatene Mist.

a: Have you been approached by any outside groups to grant such a waiver?

Answer:
On November 22, 2011, the EPA received a letter from the National Association of Chain Drug Stores (NACDS) requesting that their member retail pharmacies be allowed to sell Primatene Mist inhalers after December 31, 2011.

On December 2, 2011, the agency received a letter from former Congressman Bart Stupak on behalf of Armstrong Pharmaceuticals, which manufactures and wholesales Primatene Mist, requesting that the EPA allow the retail sales of the remaining units of Primatene Mist after December 31, 2011.

b: Please provide the legal rationale if you have determined that you will not grant such a waiver. Please include rationale addressing the lack of an equivalent OTC emergency inhaler, as all existing inhalers for asthma require prescriptions.

Answer:
We recognize the concern you raise with respect to access. In a November, 2011 letter to the FDA, the International Pharmaceutical Aerosol Consortium (IPAC), an association of companies that manufacture medicines for treatment of respiratory illnesses including asthma, noted the availability of patient assistance programs and product samples that will help users of epinephrine CFC MDIs successfully transition to CFC-free alternatives.

With respect to the question regarding a potential waiver, the EPA generally refers to this type of relief as a "No Action Assurance." The EPA has a longstanding policy governing the exercise of this type of enforcement discretion, which is described in the memorandum entitled *Processing Requests for the Use of Enforcement Discretion* (March 03, 1995). That memorandum reaffirms a policy statement entitled *Policy Against "No Action" Assurances* (November 16, 1984). A "No Action Assurance" is one in which the EPA states that it will exercise its prosecutorial discretion in a particular manner or in a given set of circumstances (i.e., that it will or will not take an enforcement action). The agency has recognized two general situations in which a no action assurance may be appropriate: (1) "where expressly provided by

applicable statute or regulation," or (2) "in extremely unusual cases in which a no action assurance is clearly necessary to serve the public interest and which no other mechanism can address adequately." Copies of the EPA's policy statements of 1984 and 1995 are enclosed.

In the two instances noted under Question A, the EPA concluded that the requests did not meet this standard. As to the first situation in which a "No Action Assurance" is appropriate, there is no statutory or regulatory provision that would allow continued sales of Primatene Mist after the date it was no longer legal for sale or distribution. With respect to the second, the EPA concluded that a "No Action Assurance" was not clearly necessary to serve the public interest. "Public interest" encompasses well-documented health concerns. In this case, the Food and Drug Administration (FDA) published a final rule in November 2008 removing the essential use designation for the use of chlorofluorocarbons (CFCs) as a propellant in Primatene Mist, effective December 31, 2011. As it stated in its final rule, the FDA does not believe that continued use of over-the-counter (OTC) epinephrine metered dose inhalers (MDIs), such as Primatene Mist, is necessary to save lives, to reduce or prevent asthma morbidity or to significantly increase patient quality of life. As a result of this final rule, Primatene Mist no longer qualified for the essential use designation which had allowed for the continued sale of the product. Once FDA made this determination, the EPA's regulations banning nonessential products were automatically triggered. Accordingly, sales of CFC-containing Primatene Mist have been prohibited since January 1, 2012.

7: Has EPA contemplated the disposal procedures necessary for dealing with the existing stock of Primatene Mist? Please provide the specific instructions which will be necessary to dispose of the existing stock containing the CFC propellant.

Answer:
The EPA is not mandating a particular disposal process for existing stock of Primatene Mist, and therefore we do not have specific instructions for its disposal. We are aware that voluntary commitments have been made publicly by groups of pharmaceutical companies (specifically by the International Pharmaceutical Aerosol Consortium) and that these public commitments envision the ultimate destruction of any unused CFC-based units.

8: Has EPA done any cost-benefit analysis of whether disposing of existing stock of Primatene Mist will do as much harm to the environment and ozone as allowing the stock to be used for medical purposes, thus gaining the benefit of providing relief to asthmatics?

Answer:
There is no EPA requirement for the disposal of the existing stock of Primatene Mist, and therefore we have not undertaken this type of cost-benefit analysis. Further, the EPA does not require detailed reporting on how many such units exist, which would be necessary to assess the impacts for such an analysis.

Congressman Sullivan:

1: Late last year, EPA Region 6 decided to reject Oklahoma's regional haze State Implementation Plan (SIP) in favor of imposing a more stringent and more expensive FIP that would compel Oklahoma utilities to use scrubbers. The frustration experienced by Oklahomans was considerable given that all the state interests had worked hard to develop what they believe is a reasonable, cost effective SIP that specifically makes sense for Oklahoma while still accomplishing the objectives of the regional haze program. Can you explain why it is a more cost-effective approach for EPA to insist on its regional haze FIP that requires the substantially more expensive installation of scrubbers on Oklahoma utility plants rather than approve the Oklahoma SIP? Can EPA's insistence of the far more expensive FIP approach possibly make sense given President Obama's Executive order 13563 which directs the federal agencies to adopt the more cost effective approach and to respect alternatives that come from the states and private sector parties that achieve EPA's environmental standards on a less burdensome basis?

Answer:
Cost effectiveness and degree of visibility improvement are two of the five factors that the EPA is required to analyze under the Best Available Retrofit Technology (BART) provisions of the Regional Haze Rule, when evaluating the appropriateness of air pollution control devices for meeting the regional haze rule requirements. Oklahoma determined that no SO_2 controls were justified under the Regional Haze Rule for the six American Electric Power/Public Service Company of Oklahoma and Oklahoma Gas and Electric units. However, the EPA determined that the installation of SO_2 scrubbers at these six units would result in significant visibility benefits at several Class I areas. In comparing the costs of these scrubbers with the visibility benefits, the EPA determined that these scrubbers were cost effective.

2: I understand that in its CAIR analysis EPA was asserting that Oklahoma emissions may have been impacting a county in Texas. But in CSAPR – which replaced CAIR – EPA has apparently abandoned that claim and instead IPA has now included Oklahoma within CSAPR because of some computer modeling which EPA believes suggests an impact of Oklahoma-generated emissions on a county in Michigan which currently is in attainment status. Does it make sense that EPA initially claimed Oklahoma's emissions were impacting a Texas county to the south of us under CAIR, but now claims that Oklahoma's emissions impact a county hundreds of miles to the north in Michigan? Does it make sense that in claiming that Oklahoma's emissions impact that lone county in Michigan there is no assertion that those emissions impact any of the presumable hundreds of other counties that lie between Oklahoma and that one county identified in Michigan? How is that reflective of sound science?

Answer:
Oklahoma was not covered under the Clean Air Interstate Rule (CAIR).

In response to the court decision on CAIR, the EPA performed updated modeling based on the latest science to assess the impacts of emissions in upwind states on air quality at downwind locations. The upwind-downwind "linkages" the EPA identified in its Cross-State Air Pollution Rule (CSAPR) air quality analysis are necessarily focused on downwind areas that were

projected to have trouble either attaining or maintaining attainment of the relevant ozone or fine particle National Ambient Air Quality Standards (NAAQS) in 2012. The EPA determined that an upwind state is "linked" to ozone nonattainment or maintenance at a downwind location of concern if the amount of the contribution from emissions in the upwind state was greater than or equal to a threshold of 1 percent of the relevant NAAQS. For ozone, the 1 percent of the NAAQS threshold is 0.8 ppb. These "linkages" identified upwind states whose emissions warranted further consideration.

In its July 2010 proposal, the EPA proposed to include Oklahoma in CSAPR due to Oklahoma's contribution to air pollution at nonattainment and maintenance locations in Texas. The EPA received numerous comments on the July 2010 proposal and updates to the data used as modeling inputs. In response, the EPA made numerous updates to the emission inventories used in the modeling performed for the final rule. The updated modeling identified Allegan County, Michigan as an area that is projected to have difficulty maintaining the relevant ozone NAAQS when historic variability in air quality is taken into consideration. This updated air quality modeling also showed that, in this location, Oklahoma's emissions contribute more than double the threshold amount, which was similar to the amount Oklahoma's emissions contributed to this location in the proposal modeling. Based on this demonstration, the EPA proposed to and ultimately did include Oklahoma in CSAPR through a supplemental rulemaking.

The EPA's final rule analysis shows that Oklahoma's emissions also contribute to ozone concentrations in other locations throughout the region including Texas, however, those locations were not identified as having NAAQS attainment or maintenance concerns. The EPA does not assert that Oklahoma's emissions only impact a "lone county in Michigan." While Oklahoma's emissions have much broader impacts, many of the impacts are on areas that are not projected to have nonattainment or maintenance problems with respect to the relevant NAAQS. Our finding that Oklahoma contributes to the maintenance receptor in Allegan County, Michigan is reasonable and fully consistent with the methodology used for identifying all upwind-downwind state linkages in the CSAPR.

Finally, the analyses the EPA conducted that informed our determination to include Oklahoma in CSAPR are scientifically sound. The emission inventories used for the final rule modeling were updated based upon public comment received for the proposed rule. Furthermore, the EPA issued the supplemental proposal explicitly allowing for an additional round of public comment on the finding that Oklahoma's emissions significantly impact ozone concentrations in Allegan County, Michigan. The EPA conducted its CSAPR analyses using state-of-the-science models that are regularly subject to peer review and public comment. The EPA used an air quality model, the Comprehensive Air Quality Model with extensions (CAMx), that has been subject to independent review through peer-reviewed journal publications and through public comments submitted to the EPA in response to notice-and-comment rulemakings. A peer review of CAMx source apportionment tools is available online at:
http://www.epa.gov/scram001/reports/SourceApportionmentPeerReview.pdf

In addition, the EPA's power sector emissions model, the Integrated Planning Model (IPM), as well as its regulatory applications are regularly reviewed by the public and benefit from detailed public comments submitted to the EPA in response to notice-and-comment rulemakings and Notices of Data Availability (NODAs). Along with other features of IPM, its algorithms, processes, and functions have been peer reviewed by panels of independent outside experts who focus on IPM's coal supply and transportation assumptions, natural gas assumptions, and power sector model formulation, among other areas. Moreover, the EPA explicitly solicited a broad range of public review and input on IPM modeling inputs and assumptions for use in developing the final CSAPR by publishing a Notice of Data Availability that appeared in the Federal Register on September 1, 2010 (75 FR 53613).

Congressman Bass:

1: The EPA's proposed 316(b) rule for cooling water intake structures includes two performance based impingement compliance options – allowing for alternatives if the standards are unachievable or unwarranted at particular sites. It would seem to me that it would be better for power plants to be regulation through site-specific analysis and with proper use of cost benefit analysis and genuine flexibility in technology choice, instead of the rigid approach set out in the proposed rule. Given that there is bipartisan concern that the proposed impingement provisions will impose unnecessary costs without resulting in commensurate benefits, will the agency set aside its one-size-fits-all approach and allow for site-specific analysis?

Answer:

- The EPA proposed national impingement mortality (IM) limitations based on information it had reviewed on the performance of modified traveling screens. While the proposal did not specifically require the use of modified traveling screens to meet the IM limits, some have interpreted the proposed rule as such.
- The EPA believed that its proposed approach was a flexible one because it would allow facilities to choose from several different compliance technologies to meet the proposed standards.
- Since July 2011, the agency has met with several stakeholder groups that recommended a variety of other approaches for addressing impingement. These include:
    - modifying the proposal so that facilities that have already reduced the rate of impingement may obtain credit for those reduction in meeting the impingement limitation;
    - developing alternatives for facilities with very low impingement levels; and
    - providing for site-specific impingement controls to be determined by the permitting authority on a site-specific basis.
- Prior to issuing the final rule, the EPA plans a *Federal Register* notice that, among other things, will highlight comments we received on impingement alternatives and seek further comment on some of these. The input we receive on the notice will be an important element in the development of the final impingement requirements in the final rule.

2: The EPA recently put in place a third party certification regime for products in order to participate in the ENERGY STAR [program. Some industries, such as consumer electronics, believe this was neither necessary nor justified based on their track record of compliance. As a result of the EPA's third party certification system, these industries are concerned that the ENERGY STAR product qualification process is now more costly and time consuming to manufacturers, especially for smaller companies. Recognizing the concerns raised in the GAO's report on ENERGY STAR, is it EPA's belief that the only answer is to install a one-size-fits-all third party certification system, or were other options considered to provide the necessary oversight for a program that has a long record of success without third party certification?

Answer:
After 20 years, the ENERGY STAR label has grown to be an incredibly valuable asset, both to the government and the product manufacturers who earn it. To ensure consumer confidence in the ENERGY STAR label and to protect the investment of ENERGY STAR manufacturing partners, the EPA requires all ENERGY STAR products to be third-party certified. This requirement includes product testing in an EPA-recognized laboratory that meets international standards for quality and competency, review of the product by an EPA-recognized certification body to determine ENERGY STAR eligibility, and ongoing testing to ensure that products continue to deliver superior energy efficiency and performance.

Third-party certification and on-going testing have been implemented over the past year. We will be monitoring that testing as it goes forward and will consider adjustments as warranted by the results for different product categories.

3: It is my understanding that EPA is attempting to broaden the scope of the ENERGY STAR program to cover factors which are not related to the energy efficiency of the product itself such as EPA's proposed specifications for computers, displays and televisions. Concern has been expressed to me that by including non-energy factors such as emissions, toxicity and recycling in the ENERGY STAR program, EPA is duplicating the private sector's existing EPEAT eco-labeling program, which EPA actually helped to fund several years ago. Are these new proposals duplicative or related to the actual energy efficiency of a product?

Answer:
The ENERGY STAR program has been successful because products that earn the label deliver energy savings without compromise in features or functionality. Energy efficiency is and will remain the basis upon which ENERGY STAR product specifications differentiate top performing products. However, requirements related to other product attributes are established, as relevant for a given product category, to ensure the label is not associated with otherwise undesirable products. For example, for office and consumer electronics products, the EPA is leveraging existing standards to ensure that products in these categories that earn the label meet minimum expectations in terms of toxicity and are designed for ease of disassembly.

To be placed on the EPEAT Product Registry, products must conform to the IEEE 1680.1 Standard for the Environmental Assessment of Personal Computer Products. This standard

covers eight environmental performance categories, including energy conservation, and requires conformant products to meet the most recent technical specifications of the Energy Star program for personal computer products. These specifications have been harmonized with Energy Star and there is no duplication.

Congressman Barton:

1: Please provide your travel budget for each of the past 3 years.

Answer:
The Administrator does not have an individual travel budget, but instead her travel is reflected under the budget of the Administrator's Immediate Office, which includes additional staff and resources which support the overall function of the Immediate Office. The travel budgets for staff of the Administrator's Immediate Office for the past three years are as follows: $328,000 in FY 2012, $275,000 in FY 2011, and $360,000 in FY 2010.

2: Please provide a list of all of your travel, both foreign and domestic, since January 2009. For each trip, please include the:

A: Dates;
B: Destination;
C: General Purpose
D: Total costs for your travel (including airfare and accommodations); and
E: All persons accompanying you on the trip.

Answer:
Please see the travel summary below for the Administrator's travel costs. For sub-question e), this information is not readily available for each trip. Typically, the Administrator travels with 1-2 senior executive staff, 1-2 press officers, and 2-3 security agents (note that costs below do not include these additional staff).

a. Dates	b. Destination	c. General purpose	d. Total cost	Who Paid/Brief Explanation?
1/30/09	Manhattan, NY	Meeting	$390.85	*see footnote
3/5/09 - 3/9/09	Manhattan, NY	Meeting	$197.00	*see footnote
3/25/09 - 3/26/09	Aspen, CO	Conference	$2,369.70	
4/3/09	Albany, NY	Meeting	$484.10	
4/15/09	New Bedford, MA	Site Visit	$1,092.95	
4/20/09 - 4/27/09	Catania & Rome, Italy	Conference	$2,679.90	
5/8/09 - 5/11/09	Princeton, NJ & Philadelphia, PA	Meeting	$46.50	Traveler only claimed 1 day

a. Dates	b. Destination	c. General purpose	d. Total cost	Who Paid/Brief Explanation?
				of per diem.
5/13/09 - 5/17/09	Manhattan, NY	Meeting	$270.75	*see footnote
5/20/09 - 5/21/09	Cheyenne, WY	Meeting	$560.45	
5/26/09 - 6/3/09	Amsterdam (Holland), Paris (France), East Windsor, NJ, Atlanta, GA, & Columbus, OH	Meeting	$3,681.26	
6/12/09	Dallas, TX	Meeting	$444.20	
6/15/09	Boston, MA & Providence, RI	Meeting	$564.95	
6/21/09 - 6/24/09	Kansas City, MO & Denver, CO	Meeting	$1,408.13	
7/14/09 - 7/15/09	San Juan, PR	Conference	$834.00	The EPA Paid
7/30/09 - 7/31/09	Chicago, IL	Meeting	$494.54	
8/5/09 - 8/8/09	Tampa, FL	Meeting	$1,144.20	
8/10/09	Knoxville, TN	Site Visit	$854.95	
9/1/09 - 9/2/09	Merrillville, IN	Meeting	$443.11	
9/11/09	Chicago, IL	Meeting	$401.70	
9/17/09 - 9/18/09	Denver, CO	Meeting	$258.13	The EPA paid for per diem and lodging
9/27/09 - 10/4/09	San Francisco and Los Angeles, CA	Conference	$2,799.19	
10/6/09	Atlantic City, NJ	Conference	$197.50	
10/25/09	Newark, NJ	Meeting	$352.50	
10/28/09	Raleigh, NC	Meeting	$250.70	
11/8/09	Philadelphia, PA and Wilmington, DE	Conference	$271.46	
11/16/09 - 11/18/09	Denver, CO & New Orleans, LA	Conference	$1,195.28	
12/1/09	Wilmington, DE	Meeting	$222.50	
12/3/09 - 12/4/09	Seattle, WA	Meeting	$1,162.00	
12/7/09 - 12/9/09	Copenhagen (Denmark)	Meeting	$2,205.36	
1/6/10 - 1/8/10	Scottsdale, AZ	Meeting	$1,113.20	
1/22/10 - 1/24/10	Greenville, MS & Jackson, MS	Conference	$1,254.43	
1/28/10	Durham County, NC	Meeting	$250.90	

a. Dates	b. Destination	c. General purpose	d. Total cost	Who Paid/Brief Explanation?
2/5/10 - 2/9/10	Cape Canaveral, FL	Site Visit	$1,423.14	
2/18/10	Columbus, OH	Meeting	$406.90	
3/26/10	Newark, NJ	Site Visit	$417.50	
4/8/10 - 4/12/10	New Orleans, LA	Conference	$2,167.45	
4/18/10 - 4/19/10	Columbia, SC	Meeting	$1,015.70	
4/21/10	Pittsburgh, PA	Conference	$1,174.90	
4/22/10	Manhattan, NY	Meeting	$457.50	*see footnote
4/26/10 - 4/27/10	Manhattan, NY	Meeting	$230.15	*see footnote
4/30/10 - 5/2/10	New Orleans & Hammond, LA	Meeting	$521.31	
5/4/10 - 5/9/10	Nairobi & Mara Area Region (Kenya), Accra (Ghana)	Meeting	$51.50	Trip cancelled; the EPA paid SATO & Govtrip fees
5/10/10 - 5/11/10	New Orleans, LA	Meeting	$875.69	
5/14/10	Glassboro, NJ	Meeting	$319.50	
5/16/10	White Plains, NY	Meeting	$438.90	
5/23/10 - 5/25/10	New Orleans, LA	Meeting	$1,144.98	
5/31/10 - 6/5/10	New Orleans, LA	Meeting	$1,919.25	
6/10/10 - 6/11/10	New Orleans, LA	Meeting	$654.74	
7/1/10 - 7/3/10	New Orleans, LA & Pensacola, FL	Meeting	$1,778.25	
7/7/10 - 7/10/10	Los Angeles, CA & Kansas City, MO	Meeting	$1,736.91	
7/15/10 - 7/16/10	New Orleans, LA	Meeting	$849.92	
7/23/10 - 7/29/10	Aspen, CO & Anchorage, AK	Meeting	$4,120.08	
7/30/10	Kalamazoo, MI	Meeting	$51.50	See footnote
8/3/10	Newark, NJ	Meeting	$389.20	
8/3/10	Grand Rapids. MI	Meeting	$51.50	Trip cancelled; the EPA paid SATO & Govtrip fees
8/4/10 - 8/5/10	Minneapolis, MN & Milwaukee, WI	Meeting	$820.97	
8/16/10 - 8/19/10	Mexico, Shreveport & New Orleans, LA	Meeting	$2,284.05	
8/26/10 - 8/29/10	New Orleans, LA	Meeting	$1,181.10	

a. Dates	b. Destination	c. General purpose	d. Total cost	Who Paid/Brief Explanation?
9/7/10	Detroit, MI, Green Bay, WI & Toledo, OH	Meeting	$807.44	
9/10/10	Atlanta, GA	Meeting	$434.04	
9/16/10 - 9/19/10	Manhattan, NY	Meeting	$628.72	
9/21/10	Manhattan, NY	Meeting	$496.92	
9/28/10 - 9/29/10	New Orleans, LA & Manhattan, NY	Meeting	$1,139.99	
9/30/10 - 10/1/10	Mexico City (Mexico)	Meeting	$52.64	Trip cancelled charge was for travel service fees only
10/5/10	New Orleans, LA	Meeting	$937.15	
10/8/10 - 10/17/10	China & San Francisco, CA	Conference	$13,874.64	
10/26/10	Newark, NJ	Meeting	$372.14	
10/31/10	Philadelphia, PA	Meeting	$306.28	
11/4/10 - 11/6/10	St. Michaels, MD	Meeting	$86.50	
11/8/10 - 11/9/10	Pensacola, FL & New Orleans, LA	Meeting	$778.07	
11/12/10	Philadelphia, PA	Conference	$307.14	
11/29/10- 11/30/10	Atlanta, GA	Meeting	$639.00	
12/1/10	Manhattan, NY	Meeting	$420.14	
12/2/10 - 12/9/10	Boston, MA	Meeting	$870.30	
12/7/10 - 12/8/10	New Brunswick, NJ	Meeting	$482.64	
12/21/10- 12/22/10	Manhattan, NY	Meeting	$659.28	*see footnote
1/18/11 - 1/19/11	Cincinnati, OH & Ann Arbor, MI	Meeting	$1,138.87	
1/26/11 - 1/28/11	El Paso & San Antonio, TX, Park City, UT	Meeting	$2,503.26	
2/17/11 - 2/24/11	Nairobi (Kenya) & Addis Ababa (Ethiopia)	Meeting	$14,198.28	
2/26/11 - 2/28/11	New Orleans, LA	Meeting	$1,013.67	
3/4/11	Philadelphia, PA	Meeting	$330.14	
3/18/11 - 3/20/11	Brasilia (Brazil)	Meeting	$415.15	White House provided transportation; the EPA paid

a. Dates	b. Destination	c. General purpose	d. Total cost	Who Paid/Brief Explanation?
				for lodging & per diem
3/22/11 - 3/24/11	Los Angeles, CA & Fresno, CA	Meeting	$1,289.48	
4/4/11	Philadelphia, PA	Meeting	$288.14	
4/6/11	Manhattan, NY & Trenton, NJ	Meeting	$225.84	
4/15/11	Boston, MA	Meeting	$454.54	
4/17/11 - 4/19/11	Atlanta, GA & Des Moines, IA	Meeting	$1,017.95	
4/20/11	New Orleans, LA	Meeting	$978.79	
4/21/11	Philadelphia, PA	Meeting	$292.14	
4/26/11 - 4/27/11	Manhattan, NY & Milwaukee, WI	Meeting	$887.68	
4/28/11 - 4/30/11	Princeton, NJ & Tallahassee, FL	Meeting	$2,140.24	
5/5/11 - 5/6/11	Mobile, AL	Meeting	$829.54	
5/10/10 - 5/11/11	Kansas City, MO	Conference	$509.04	
5/13/11	Manhattan, NY	Meeting	$189.54	
5/19/11 - 5/20/11	Manhattan, NY	Meeting	$798.53	
5/29/11 - 6/1/11	Orlando & Pensacola, FL	Meeting	$1,512.59	
6/3/11	Brooklyn, NY	Meeting	$179.54	
6/6/11	Lansing, MI	Meeting	$773.24	
6/11/11 - 6/13/11	San Jose & Sacramento, CA	Meeting	$1,210.84	
6/17/11	Cleveland, OH	Site Visit	$1,199.54	
6/21/11	Montreal (Canada)	Meeting	$759.13	
6/25/11 - 6/27/11	Kemah & Galveston, TX, Aspen, CO	Meeting	$2,388.45	
7/11/11 -7/12/11	Richmond, VA	Meeting	$1,107.59	
7/19/11 - 7/25/11	Austin, TX, Las Vegas, NV & Los Angeles, CA	Conference	$2,884.96	
8/1/11	Raleigh, NC	Meeting	$54.14	Trip cancelled – charge was for travel service fees only
8/9/11	Detroit, MI	Meeting	$557.89	

a. Dates	b. Destination	c. General purpose	d. Total cost	Who Paid/Brief Explanation?
8/14/11 - 8/20/11	Rio De Janeiro (Brazil)	Meeting	$3,340.76	
8/29/11 - 8/30/11	Biloxi, MS	Meeting	$668.95	
9/14/11 - 9/20/11	San Francisco, CA, Chicago, IL, Milwaukee, WI, & Manhattan, NY	Meeting	$2,263.00	
9/26/11 - 9/27/11	Manhattan, NY	Meeting	$1,042.39	*see footnote
10/6/11	Boston, MA	Site Visit	$295.96	
10/11/11- 10/12/11	Detroit, MI	Meeting	$745.67	
10/17/11	Newark, NJ & Philadelphia, PA	Meeting	$388.31	
10/19/11- 10/20/11	Manhattan, NY	Meeting	$932.05	
10/21/11- 10/24/11	Los Angeles, CA & Denver, CO	Meeting	$1,623.57	
11/2/11 - 11/4/11	San Francisco, CA	Meeting	$1,358.43	
11/14/11- 11/15/11	Madison, WI	Meeting	$772.63	
11/21/11- 11/22/11	Manhattan, NY	Meeting	$593.38	
12/4/11 - 12/6/11	Houston, TX & Chapel Hill, NC	Meeting	$1,069.78	
1/5/12 - 1/6/12	Miami & West Palm Beach, FL	Meeting	$1,165.00	
1/9/12	Detroit, MI	Conference	$328.11	
1/11/12 - 1/13/12	Manhattan, NY & Philadelphia, PA	Meeting	$1,070.49	
1/17/12	Minneapolis, MN	Meeting	$680.16	
1/25/12 - 1/27/12	Seattle, WA	Meeting	$1,858.53	
1/30/12	Manhattan, NY	Meeting	$172.91	
2/2/12 - 2/3/12	Palo Alto, CA	Site Visit	$1,290.95	
2/17/12 - 2/20/12	Los Angeles, CA	Meeting	$2,069.81	
2/21/12 - 2/22/12	Atlantic City, NJ	Meeting	$638.97	
2/24/12 - 2/25/12	Princeton, NJ	Meeting	$243.35	
3/3/12 - 3/4/12	Birmingham, AL	Meeting	$1,002.22	
3/11/12 - 3/12/12	Newark, NJ, Manhattan, NY, Kansas City, MO & Jersey City, NJ	Meeting	$1,659.92	
3/17/12	Atlanta, GA	Meeting	$360.91	
3/27/12 - 3/30/12	Paris (France)	Meeting	$2,430.95	See footnote

*Note – Costs associated with travel to Manhattan vary for a variety of reasons, including different transportation costs depending on when travel was booked, whether travel by train or by air, and whether lodging was at per diem or above per diem. In addition, on some trips traveler stayed with acquaintances and thus no lodging expenses were incurred.

7/30/10: Return flight cancelled due to storms; MI DOT provided transportation to DC; the EPA paid SATO and Govtrip fees.

3/27/12: Conference sponsor (Organization of Economic Cooperation and Development) paid for meals only; the EPA paid for airfare, lodging, SATO and Govtrip fees.

3: Is EPA funding research grants to individuals or to institutions that employ individuals who serve on EPA's advisory or review committees? If yes, what are EPA's policies and requirements concerning the funding of individuals or institutions that employ individuals who serve on its advisory or review committees?

Answer:
Some experts who are appointed by the EPA as advisory committee members also work for institutions that receive EPA grant funding for a variety of purposes. Generally speaking, these grants are competitively awarded through an independent peer review process. After the grants are awarded, the EPA does not direct or influence the research (e.g., see the EPA's STAR grant program).

Committee members who serve on federal advisory committees (as subject to the Federal Advisory Committee Act) and are appointed principally to provide technical expertise in rendering advice to the EPA are appointed as Special Government Employees (SGEs) as per definition under 18 U.S.C. 202(a). Advisory committees giving advice on scientific or technical matters generally consist entirely of SGEs. As Government employees, SGEs are subject to the applicable Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635 as well as criminal conflict of interest statutes. SGEs are required to file financial disclosure reports and to take annual ethics training. These forms require the SGE to identify any funding they receive from the EPA. The forms are reviewed for any ethics concerns and then signed by the appropriate agency deputy ethics official prior to the SGE serving on a federal advisory committee. The forms are also reviewed before any new matter comes before a committee where the SGE serves.

Receiving EPA research grants does not automatically bar a scientist from participating on an EPA advisory committee. However, the EPA evaluates each member for any conflict of interest or appearance of lack of impartiality for each review activity. SGEs fall under a regulatory exemption at 5 C.F.R. 2640.203(g) that deals with financial interests arising from the SGE's outside employment. So long as the SGE does not own stock in the employer, then this exemption permits SGEs serving on FACA committees to participate in particular matter of general applicability (such as the development of general regulations, policies, or standards)

where the disqualifying interest arises from the SGE's non Federal employment or prospective employment.

In addition to SGEs, the EPA also appoints federal advisory committee members as representative members. These members represent or speak for a group of people and are not primarily appointed for their expertise. As they are not Government employees, representatives are not covered under the ethics laws and regulations that apply to SGEs. Representative committee members are generally not appointed to advisory committees that provide scientific or technical advice to the agency. When representative members find themselves providing advice on an issue they or institutions that employ them have a direct financial interest in, they are advised to recuse themselves.

Congressman McKinley:

1: The U.S. District Court for the District of Columbia ruled on Oct. 6 in *National Mining Association v. Jackson* that is incumbent upon the Corps to ensure that clean Water Act permits are issued in a timely manner and without impermissible interference from EPA. What efforts are EPA and the Corps undertaking to ensure compliance and consistent implementation of the court's decision?

Answer:
On October 6, 2011, the Federal District Court for the District of Columbia set aside the Enhanced Coordination Procedures (ECP) developed by the Department of the Army and the U.S. Environmental Protection Agency to expedite review of 79 pending Appalachian surface coal mining permit applications. The Army Corps of Engineers Districts and the EPA Regions in Appalachia have ceased using the ECP as of the date of the District Court's decision. The Corps Districts affected by the court ruling were advised to process pending applications in accordance with published Corps of Engineers regulations and applicable Memoranda of Agreement. The EPA issued a memorandum to the three EPA regional offices reviewing permits in Appalachia instructing them to cease coordination under the ECP, and to work with the Corps consistent with existing statutory and regulatory authorities and roles. The Corps issued the same instructions to its Districts.
2: The Corps' own data indicates that there are still 130 individual and general permits pending in the four districts alone, with only 21 of those in the "final review stage". What progress has been made by the EPA since the Court decision to issue these permits in a timely manner?

Answer:
The Army Corps of Engineers, the agency responsible for making decisions on Section 404 Clean Water Act permit applications, would be able to provide information about the status of pending permit applications. The U.S. Environmental Protection Agency strives to provide timely input on proposed section 404 activities in accordance with standard procedures, which were established based on the Corps implementing regulations and the 1992 EPA/Corps Memorandum of Agreement implementing Clean Water Act section 404(q). The EPA continues

to work with all agencies in each Appalachian state which are responsible for the review/permitting of activities related to surface coal mining. The EPA's goal is to provide timely review and input so that applicants may address any issues during the early stages of project planning, when steps can be more easily taken to ensure the activity complies with the Clean Water Act Section 404(b)(1) Guidelines (40 Code of Federal Regulations part 230). Regarding any projects that were being evaluated pursuant to the Enhanced Coordination Procedures, those permit applications are no longer under review by the EPA under the ECP process because these procedures were set aside by the District Court for the District of Columbia as described above.

3: In *NMA v. Jackson* the Court ruled that the Enhanced Coordination Procedures developed by the EPA and Corps unlawfully changed the permitting process for Section 404 coal mine permits under the Clean Water Act. In light of this decision, how can we ensure the current and future guidance documents do not become rules themselves without affording stakeholders the procedural protections under the Administrative Procedure Act?

Answer:
It is important to emphasize that the EPA works hard to assure that our guidance is developed to help agency staff, states, the public, industry, and others better understand how we implement existing law. The EPA guidance is non-binding and does not establish any new requirements. It is also important to state that the decision in *NMA* focused exclusively on the Corps and EPA use of their enhanced coordination procedures developed to coordinate review of section 404 permit applications that had been pending since the prior administration. The public can be assured that any binding rules the EPA develops will be fully consistent with relevant requirements established under the APA.

Congressman Pompeo:

1: Administrator Jackson, it is my understanding the Environmental Protection Agency is a participating Federal Agency in the Areawide Environmental Impact Statement (AEIS) for phosphate mining. As you know, it is essential that this AEIS process stay on track so that these important mining jobs stay in the United States. In addition, phosphate is a critical mineral used by farmers in my district to grow crops. Maintaining a domestic supply of these products will ensure that framers will continue to have access at a reasonable cost. Can you give me a status on EPA involvement in this process?

Answer:
The EPA's Region 4 Office is a cooperating agency on the AEIS being prepared by the U.S. Army Corps of Engineers (USACE). The EPA is providing technical assistance in the areas of water quality standards and monitoring, wetland mitigation strategies, community issues (environmental justice), and National Environmental Policy Act (NEPA) compliance to the USACE as they prepare the AEIS. The USACE is the lead federal agency given their permitting responsibilities under Section 404 of the Clean Water Act.

USACE has established an AEIS project team, which includes the EPA, as well as representatives from the State of Florida. The project team has been meeting weekly to ensure that a technically sound AEIS is prepared in an expeditious manner.

2: On January 26, 2012, the US Army Corp of Engineers (USACE) held a briefing for Federal, state, and local participating agencies. Was there EPA headquarters involvement in that briefing or are these issue being handled solely by the EPA Regional Office?

Answer:
The January 26, 2012 briefing by the USACE and the AEIS project team, including the EPA Region 4, was intended to inform a wide range of interested stakeholders of the status of the effort. The EPA Headquarters staff did not participate in that briefing. The EPA Region 4 is the lead for the EPA for working with the USACE and other stakeholders on this effort. As part of the standard approach, EPA Region 4 is keeping EPA Headquarters apprised of the project's progress. As appropriate, EPA Headquarters staff has also participated in the project team technical meetings, e.g., providing general assistance on methods to evaluate mining proposals based on experiences with projects in other Regions. Concurrent with the regular project team meetings, EPA Region 4 also continues to have regular meetings with both applicants for permits, Mosaic Corp. and CF Industries, to discuss permit and mitigation issues.

3: Originally, the proposed schedule had a draft AEIS in March 2012, a Notice of Availability of the Final AEIS in August of 2012 and a Record of Decision (ROD) by the end of 2012. Now the new schedule includes a draft AEIS in June 2012, a final AEIS in November 2012 and no date yet released for the ROD. Are you committed to working with the USACE to ensure that this process remains on schedule and there are no more slippages?

Answer:
While USACE determined it was necessary to adjust the schedule, the EPA, as part of the project team, is fully committed to supporting this schedule.

Congresswoman Bono Mack:

1: Particularly during these difficult economic times, Congressional oversight of federal spending is critical.

As you know, the President's budget request for the EPA is $8.344 billion, which is approximately 1.2 percent below the fiscal year 2012. My sense is that – particularly with a $15.5 trillion debt – shouldn't we be talking about much larger cuts in federal spending than just one percent?

Answer:
The EPA recognizes the need for fiscal responsibility during these difficult economic times. However, the agency's mission to protect human health and the environment is critical to the environmental and economic health of our communities, and our FY 2013 request reflects a

commitment to reducing government spending and cost savings in a responsible manner while supporting clean air and clean water and clean land.

The EPA's FY 2013 request reflects an extensive and detailed planning process that begins nearly a year before submission of the budget to Congress. During formulation, the agency considers progress made toward its annual and long-term goals and priorities, as articulated in our Strategic plan, and emerging needs. Meeting existing commitments and planning for future needs cannot be done without considering disinvestment opportunities to redirect resources to higher priorities. In some cases we have had to take a step back from programs, and this budget reflects a savings of $50 million through the elimination of several EPA programs and activities.

2: I'd like to ask about the agency's regulations. While I believe many of the EPA's actions are in good faith, I'd like to emphasize the importance that regulations be balanced – meaning they must consider the health benefits and the impact of jobs and the economy – and completely understood by the regulators who publicly promulgate regulations they intend to enforce.

Take for instance the Chemical Data Reporting Rule, published in the Federal Register as a final regulation by the EPA on August 16, 2011. This rule mandates reporting of various types of information from manufacturers. It is expected to provide the agency more information, on more chemicals in US commerce, than ever before. This rule will bring the Agency a lot of new information to help it understand the potential impacts and/or benefits of chemicals, but complying with this new rule is no trivial matter. I have a few questions about the implementation process.

a: We have heard that the regulated community does not have a firm understanding of the new Chemical Data Reporting requirements, and adequate time to fully comply with this rule. As of 5 weeks ago, EPA had not responded to all questions from stakeholders, or provided additional guidance and clarifications, particularly on byproducts reporting under this rule. Has EPA responded to all the questions from stakeholders, or provided additional guidance and promised clarifications, especially on byproducts reporting under this rule? Since compliance, or rather EPA actually getting useful information is the goal, what evidence do you have that the regulated community understands the new reporting requirements?

Answer:
The EPA has provided a wide variety of guidance, presentations, and other assistance to the regulated community and continues to respond to requests for information as they are received. Since the final Chemical Data Reporting (CDR) Rule was published in August 2011, the

EPA has held several webinars,[10] traveled to industry meetings to make presentations and answer questions on the reporting requirements, and added numerous guidance documents, training modules, and frequently asked questions to the CDR website. Items associated specifically with byproduct reporting that are readily available on the CDR website include an online training module,[11] a question and answer (Q&A) document,[12] and a byproduct and recycling scenarios document[13] (including an associated slide presentation[14]). In addition, byproduct-specific instructions for reporting are included in the overall CDR instructions manual[15] and a byproduct example is included in the CDR case studies document.[16]
The EPA will continue to provide support to companies through a range of informational resources. The agency will continue to address newly submitted questions from the regulated community through the end of the submission period. Comments and questions may be submitted to the EPA in a variety of ways, including through telephone hotlines and a general CDR e-mail address. In addition, members of the public may call any of a number of agency staff persons who are able to address their questions.

b: In the final rule, with its expanded reporting requirement, EPA shortened the timeframe in which industry must prepare the reports for 2011 by three months. Instead of being given six to nine months to prepare the reports, EPA has provided only one to six months between the last day of collection and the submission deadline. Since reporting was mandated to begin four weeks ago, if the Agency is aware that there are still compliance questions, would they consider extending the reporting submission period to September 30, 2012, to be consistent with future reporting periods as well as allow submitters adequate time to fully comply with the new requirements?

Answer:

The final CDR Rule was published on August 16, 2011. The rule requires companies to report a range of information on the chemicals they manufacture. In order to provide time for the regulated community to become accustomed to the reporting requirements that were new, the EPA has taken significant steps to accommodate submitters' transition concerns. For example, the need to report production volume for all years since the last principal reporting year, the need to report processing and use information for chemicals manufactured under 100,000 pounds, and the need to report for certain chemicals based on a 2,500 pound product volume threshold were delayed until the 2016 submission period. The EPA has also been working closely with many industry groups and individual companies to address questions regarding the

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[10] CDR webinars were held on September 23 and November 16, 2011 and January 19, February 8, April 17, and May 8, 2012. Information from the webinars is on the CDR website, at http://www.epa.gov/iur/tools/index.html.

[11] http://www.epa.gov/iur/tools/training/Training_Module_7.pdf

[12] http://www.epa.gov/iur/tools/Q&A_DOCUMENT-Recycling_and_TSCA_Chemical_Substance_Inventory%20-_revised%208-1-11.pdf

[13] http://www.epa.gov/iur/pubs/guidance/2012_CDR_Byproducts_Scenaros.pdf

[14] http://www.epa.gov/iur/pubs/guidance/ByproductWorkshop_01-19-12_final.pdf

[15] http://www.epa.gov/iur/tools/InstructionsManual.041712.pdf. Byproducts are specifically discussed beginning on page 2-4 of the Instructions document.

[16] http://www.epa.gov/iur/tools/2012_CDR.Examples.pdf. Example C, beginning on page 6, addresses a byproduct chemical substance.

2012 reporting obligations. The EPA has provided a variety of guidance and training materials on its website, including instructions for reporting, user guides, case studies, reporting scenarios, and seven training modules; has held webinars beginning in November 2011; and has provided presentations and addressed questions at industry meetings beginning in September 2011. In addition, the EPA expanded the 2012 submission window from the previously established four months to five months to provide adequate time for companies to review and understand changes in the requirements, gather the necessary information, and file through the agency's electronic reporting system. On June 11, the EPA announced an extension of the deadline for 2012 reports from June 30, 2012 to August 13, 2012. EPA will continue to provide support to companies through a range of resources, including the TSCA Hotline, the CDR webmail, and the availability of EPA staff to answer questions about reporting to CDR.

c: Is the e-CDR web electronic reporting tool fully operational? Has the Agency tested the electronic reporting tool? Is there a beta-version of the tool? What changes have been made to the tool on the basis of stakeholder input?

Answer:
Yes, the e-CDRweb electronic reporting tool is fully operational. It was made available for industry to use beginning January 1, 2012, following two separate industry testing periods. Developed based on lessons learned from the 2006 IUR reporting software and the agency's New Chemicals PMN reporting software, the 2012 e-CDRweb tool was put through two separate testing periods with industry volunteers and one intensive agency testing period using specific reporting scenarios. Each of the industry testing periods began with a webinar to review the reporting tool and a week-long period during which industry participants could try out the tool. Information from the first industry testing effort was used to develop a beta version of the e-CDRweb, which was then tested by over 50 industry participants in September 2011. The EPA continued to follow up with individual companies that participated in the beta-testing or had special circumstances throughout the fall.
Once the reporting tool was deployed, the EPA continued to receive comments on certain functions and has provided updates to the tool. These updates were deployed and did not affect any information that the regulated community had already entered into the system. Examples of changes made to the electronic reporting tool based on stakeholder input include:

- Multiple authorized officials. Stakeholders identified that the person at their company that would be responsible for signing the form likely did not want to be involved in initiating the form. To address this concern, the agency changed the registration process, which originally allowed only a single authorized official, so that it now allows multiple authorized officials to be associated with one reporting site.
- Editable parent company information. Originally, the registered organization information was used to populate the parent company identification fields. In some situations, the parent company was different from the authorized official's registered organization. The EPA changed the reporting tool by adding a check box which makes all fields on the screen editable. This allows the submitter to change the parent company information to reflect a different organization than the one under which they are registered.

- Warning messages: Revisions were made to clarify the impact of the issue described in the message. For example:
    - The warning message "2.B.8 – The minimum threshold for Processing and Use has not been met. The value is below 100,000 lbs" was changed to "Section 2.B.5/6 – The sum of 2.B.5 and 2.B.6 is less than the minimum threshold of 100,000 pounds. Please be aware that you have fallen below the minimum threshold and are not required to complete Processing & Use information."

    - The warning prompt message "All form data entered will be lost," which generates when a user checks 'Not Applicable' on Section 3.A or 3.B of the form, now reads as "All form data entered on this screen will be lost."

    - Manufacturers (including importers) with production volumes of 100,000 pounds or more are required to report processing and use information in sections 3.A and 3.B of the reporting form. Originally, a message would be triggered when a chemical is reported with sufficient production volume and the processing and use information section is not completed. However, certain chemicals, as listed in the CDR regulation, are exempted from the requirement to report processing and use information. The agency has added a separate validation process for the partially exempt chemicals, so that users now are able to exceed the 100,000 pound threshold and not report processing and use information.

- Revisions to XML requirements. The EPA has enabled the regulated community to set their own system for collecting the CDR information, and has provided an XML schema to enable those users to upload their data directly into the reporting tool. This allows such users to not need to enter information for each individual chemical. Based on stakeholder comments, the EPA has made some changes to the XML schema. For example:

    - Chemical names are no longer case-sensitive. This change means that the chemical names do not have to exactly match the database that the EPA uses to ensure the chemical identification is what is reflected on the TSCA Inventory.

    - Certain of the CDR data elements are reportable by code. Originally, the XML schema required that both descriptions and codes be provided. The EPA has changed the XML schema so that only codes are required.

<u>Congressman Engel:</u>

1: Administrator Jackson: As you know, in accord with the Federal Long Term 2 Surface Water Treatment Rule, the Environmental Protection Agency sought to have New York City to build a concrete cover over the Hillview Reservoir in Yonkers. I was one of several members of the New York Delegation that wrote to you urging a waiver of the regulation as it applies to Hillview. EPA subsequently agreed to initiate a review process for the regulation requiring

covers on reservoirs such as Hillview. Please provide me with an update on the status of that review process. Thank you for your responsiveness to date, and I look forward to continuing to work with you on this and many other issues.

Answer:
In Fall 2011, the EPA initiated the Long Term 2 Enhanced Surface Treatment Rule (LT2) review and held a public meeting in December 2011 that focused on technical data and information related to analytical methods and occurrence that may be used to inform the LT2 review. The agency is holding a LT2 public meeting on April 24, 2012, that will focus on the rule's uncovered finished water reservoir requirement. At this meeting, the EPA will engage stakeholders and the public in discussion and solicit input on technical information that may inform the regulatory review of the LT2 rule's uncovered finished water reservoir requirement. The EPA is reviewing the LT2 rule as part of the agency's retrospective regulatory review plan. The LT2 review also fulfills, in part, the Safe Drinking Water Act (SDWA) mandate to review existing rules every six years.

The uncovered finished water reservoir provision in LT2 requires public water systems to cover any uncovered finished water storage facility or treat the discharge from the uncovered finished water storage facility to achieve inactivation and/or removal of viruses, *Giardia*, and *Cryptosporidium*, using a protocol approved by the state. If a public water system chooses to cover the uncovered finished water reservoir, the system can select the type of cover (e.g., concrete, aluminum, floating cover) that is appropriate for that system. New York City chose a concrete cover for the Hillview Reservoir.

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[i] Inter-organization Programme for the Sound Management of Chemicals –
Global Mercury Assessment: http://www.unep.org/gc/gc22/Document/UNEP-GC22-INF3.pdf

[ii] http://www.gao.gov/new.items/d08116ɢt.pdf

[iii] http://www.gsa.gov/graphics/admin/National_Strategy_Electronics_Stewardship_2011.pdf

[iv] http://www.americanerecycling.org/home.html

List

HEC - International Grants - Jan 2009 to Present with Stat Auth.

Grant Number	Statutory Auth	Cumulative Award	Applicant Name
83333902	Clean Water Act: Sec. 104(b)(2) National Environmental Policy Act: Sec. 102(2)(F) Toxic Substances Control Act: Sec. 10	$ 231,674.00	Texas Tech University
83370501	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 Clean Water Act: Sec. 104(b)(2) Fifra: Sec. 20 National Environmental Policy Act: Sec. 102(2)(F) Toxic Substances Control Act: Sec. 10	$ 948,121.00	Alaska Native Tribal Health Consortium
83386501	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 899,401.00	University of Iowa
83395401	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 Clean Water Act: Sec. 104(b)(2) Fifra: Sec. 20 Safe Drinking Water Act: Sec. 1442 Solid Waste Disposal Act: Sec. 8001 Toxic Substances Control Act: Sec. 10	$ 593,601.00	Environmental Council of the States
83401201	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 Clean Water Act: Sec. 104(b)(2) Fifra: Sec. 20 National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442 Solid Waste Disposal Act: Sec. 8001 Toxic Substances Control Act: Sec. 10	$ 594,300.00	World Health Organization
83406301	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 Clean Water Act: Sec. 104(b)(2) Fifra: Sec. 20 National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442 Solid Waste Disposal Act: Sec. 8001 Toxic Substances Control Act: Sec. 10	$ 1,385,000.00	World Health Organization
83406501	Fifra: Sec. 20 National Environmental Policy Act: Sec. 102(2)(F)	$ 372,340.00	Bd of Regents University of NE-Lincoln
83412701	National Environmental Policy Act: Sec. 102(2)(F) Solid Waste Disposal Act: Sec. 8001	$ 190,000.00	Org. for Economic Coop. and Dev.
83414201	National Environmental Policy Act: Sec. 102(2)(F) Toxic Substances Control Act: Sec. 10	$ 525,000.00	Health Care Without Harm
83415201	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 1,376,841.00	United Nations Environment Programme
83415501	National Environmental Policy Act: Sec. 102(2)(F) Toxic Substances Control Act: Sec. 10	$ 312,304.00	University of Massachusetts Lowell
83415801	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 Clean Water Act: Sec. 104(b)(2) Fifra: Sec. 20 National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442 Solid Waste Disposal Act: Sec. 8001 Toxic Substances Control Act: Sec. 10	$ 397,000.00	JordanMnEnv - Kingdom of Jordan Ministry of Environment
83416601	Clean Water Act: Sec. 104(b)(2) National Environmental Policy Act: Sec. 102(2)(F)	$ 72,933.00	Environmental Society of Oman
83416701	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 Fifra: Sec. 20 National Environmental Policy Act: Sec. 102(2)(F) Solid Waste Disposal Act: Sec. 8001 Toxic Substances Control Act: Sec. 10	$ 1,145,000.00	United Nations Environment Programme
83420601	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 440,000.00	World Resources Institute
83420701	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 114,000.00	RockPAd - Rockefeller Philanthropy Advisors
83422301	Clean Water Act: Sec. 104(b)(2) National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442	$ 1,250,000.00	NSF International
83429101	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 9,976.00	Rochester Institute of Technology
83429201	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 10,000.00	Wellesley College
83429901	National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442	$ 10,000.00	The Regents of the University of CA - LA
83430201	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 75,000.00	Columbia University

List

HEC - International Grants - Jan 2009 to Present with Stat Auth.

Grant Number	Statutory Auth.	Cumulative Award	Applicant Name
83430501	Clean Water Act: Sec. 104(b)(2) National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442	$ 15,000.00	Global Water Research Coalition
83432701	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 9,720.00	The Pennsylvania State University
83433901	Clean Water Act: Sec. 104(b)(2) National Environmental Policy Act: Sec. 102(2)(F)	$ 9,992.00	Ohio State University Research Foundation
83435401	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 1,093,838.00	Regents of the University of Michigan
83435901	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 898,634.00	President and Fellows of Harvard College
83436701	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 74,760.00	Massachusetts Institute of Technology
83436801	Clean Water Act: Sec. 104(b)(2) National Environmental Policy Act: Sec. 102(2)(F)	$ 75,000.00	AZ Board of Regents - Univ. of Anzona
83438501	Clean Water Act: Sec. 104(b)(2) National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442	$ 870,009.00	Princeton University
83439401	National Environmental Policy Act: Sec. 102(2)(F)	$ 20,000.00	Org. for Economic Coop. and Dev.
83439701	National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442	$ 9,978.00	Board of Trustees University of Illinois
83442701	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 553,793.00	Environmental Defense Fund Inc
83442801	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 153,695.00	Southern Illinois University at Carbondale
83442901	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 210,730.00	Guizhou Intl Cooperation Center for Env Protection
83443901	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 180,000.00	China Coal Information Institute
83444101	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 90,000.00	Rutgers University
83444201	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 98,550.00	CSU Fullerton Auxiliary Services Corp
83444401	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 99,996.00	International City/County Mgmt. Assoc.
83444501	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 400,000.00	Regents of the University of Colorado
83444601	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 150,029.00	Natl Assoc of Regulatory Utility Commissioners
83444701	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 120,000.00	Appalachian State University
83445101	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ -	NatL Environ Engineering Research Institute Nagpur
83445201	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 94,160.00	RusDem - RUSDEM - EE
83445301	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 21,100.00	Centre for People & Environment
83445801	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 80,000.00	EnEffect- Center for Energy Efficiency
83445901	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 20,761.00	Ateneo De Manila University
83446001	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 99,866.00	Instituto Internacional de Recursos Renovables
83446401	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 199,805.00	China University of Petroleum Bejing
83446501	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 100,000.00	Asoc Para El Estudio de los Residuous Solidos
83446801	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 Clean Water Act: Sec. 104(b)(2) National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442 Solid Waste Disposal Act: Sec. 8001 Toxic Substances Control Act: Sec. 10	$ 290,000.00	Ministry of Env Prot. People Republic of China
83448801	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 106,600.00	Philippine Council Industry & Energy
83448901	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 110,000.00	Station of Agricultural Environment Potection
83449001	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 170,000.00	Instytut Nafty i Gazu

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Grant Number	Statutory Auth.	Cumulative Award	Applicant Name
83449101	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 125,000.00	CNPMLTA
83449901	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 340,000.00	Glowny Instytut Gornictwa-Central Mining Institute
83450101	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 31,000.00	Energy & Environmental Development Rsrch Ctr
83450201	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 104,225.00	Fundacion Guanajuato Produce
83450801	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 30,000.00	Renewable Energy Agency
83451101	National Environmental Policy Act: Sec. 102(2)(F) Toxic Substances Control Act: Sec. 10	$ 3,704,598.00	The Regents of the University of CA - Berkeley
83451301	Fifra: Sec. 20 National Environmental Policy Act: Sec. 102(2)(F) Toxic Substances Control Act: Sec. 10	$ 3,538,134.00	University of California Berkeley
83456201	Fifra: Sec. 20 National Environmental Policy Act: Sec. 102(2)(F)	$ 1,431,709.00	Natl Assoc State Dept Agriculture Rsch Fdn
83457201	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 14,990.00	Gordon Research Conferences
83457301	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 Clean Water Act: Sec. 104(b)(2) National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442 Toxic Substances Control Act: Sec. 10	$ 305,849.00	Science and Technology Center in Ukraine
83457401	National Environmental Policy Act: Sec. 102(2)(F) Toxic Substances Control Act: Sec. 10	$ 2,000,000.00	Univ of KY Research Fdn.
83457501	Clean Water Act: Sec. 104(b)(2) National Environmental Policy Act: Sec. 102(2)(F) Toxic Substances Control Act: Sec. 10	$ 2,000,000.00	William Marsh Rice University
83457601	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 1,250,000.00	University of Pittsburgh
83458101	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F) Toxic Substances Control Act: Sec. 10	$ 1,250,000.00	UT Health Science Center at Houston
83458301	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 Clean Water Act: Sec. 104(b)(2) National Environmental Policy Act of 1969: Sec. 102	$ 200,000.00	University of Utah
83459101	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 Clean Water Act: Sec. 104(b)(2) Fifra: Sec. 20 National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442(b) Solid Waste Disposal Act: Sec. 8001 Toxic Substances Control Act: Sec. 10	$ 225,000.00	Environmental Law Institute
83459201	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 Clean Water Act: Sec. 104(b)(2) Fifra: Sec. 20 National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442 Solid Waste Disposal Act: Sec. 8001 Toxic Substances Control Act: Sec. 10	$ 4,437,241.00	American Association Advancement of Science
83459701	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 Clean Water Act: Sec. 104(b)(2) National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442 Toxic Substances Control Act: Sec. 10	$ 505,850.00	International Science and Technology Center
83460201	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 Clean Water Act: Sec. 104(b)(2) Fifra: Sec. 20 National Environmental Policy Act: Sec. 102(2)(F) Solid Waste Disposal Act: Sec. 8001	$ 225,000.00	International Criminal Police Organization
83467901	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 Clean Water Act: Sec. 104(b)(2) National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442 Solid Waste Disposal Act: Sec. 8001	$ 680,000.00	Battelle Memorial Institute
83469302	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 Clean Water Act: Sec. 104(b)(2) National Environmental Policy Act: Sec. 102(2)(F) Toxic Substances Control Act: Sec. 10	$ 1,999,995.00	University of Southern California

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Grant Number	Statutory Auth.	Cumulative Award	Applicant Name
83470201	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F) Solid Waste Disposal Act: Sec. 8001	$ 9,300.00	Rowan Univ. - Rowan University
83470801	National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442	$ 9,988.00	Columbia R2 - Columbia University in the City of New York
83471601	National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442	$ 10,000.00	University of Toledo
83471701	National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442	$ 10,000.00	Lehigh University
83472101	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 Clean Water Act: Sec. 104(b)(2) Fifra: Sec. 20 National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442(b) Solid Waste Disposal Act: Sec. 8001 Toxic Substances Control Act: Sec. 10	$ 500,000.00	Institute for Governance and Sustainable Dev.
83473501	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 9,983.00	North Carolina State University
83474001	National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442	$ 10,000.00	The Pennsylvania State University
83474301	National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442	$ 9,900.00	Manhattan Co - Manhattan College
83474601	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 75,000.00	Harvard School of Public Health
83474901	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 74,899.00	Humboldt State Univ Foundation
83475201	National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442	$ 75,000.00	Cornell University
83475301	Clean Water Act: Sec. 104(b)(2) National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442 Solid Waste Disposal Act: Sec. 8001	$ 75,000.00	The University of North Carolina at Chapel Hill
83475401	National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442	$ 75,000.00	Board of Trustees University of Illinois
83475801	Clean Water Act: Sec. 104(b)(2) Fifra: Sec. 20 National Environmental Policy Act: Sec. 102(2)(F)	$ 75,000.00	North Carolina A&T State University
83476501	Clean Water Act: Sec. 104(b)(2) National Environmental Policy Act: Sec. 102(2)(F)	$ 9,954.00	University of Georgia Research Foundation Inc.
83477101	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442	$ 10,000.00	New Jersey Institute of Technology
83477801	National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442	$ 10,000.00	Board of Trustees University of Illinois
83478001	National Environmental Policy Act: Sec. 102(2)(F) Solid Waste Disposal Act: Sec. 8001 Toxic Substances Control Act: Sec. 10	$ 510,000.00	United Nations University
83479801	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 3,544,383.00	UofWA - University of Washington
83479801	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 3,056,192.00	Harvard School of Public Health
83479901	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 3,258,837.00	Emory University
83480001	National Environmental Policy Act: Sec. 102(2)(F) Toxic Substances Control Act: Sec. 10	$ 1,335,311.00	Regents of the University of Michigan
83481901	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 15,000.00	KPBB-Joint Committee for Leaded Gasoline Phase-out
83482701	Clean Water Act: Sec. 104(b)(2) National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442	$ 300,000.00	Intl WA - International Water Association
83486001	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F) Toxic Substances Control Act: Sec. 10	$ 600,000.00	Regents of the University of Michigan
83487201	National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442	$ 300,000.00	University of Connecticut All Campuses
83489401	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 300,000.00	President and Fellows of Harvard College
83498601	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 150,000.00	Tsinghua University Department of Building Science

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Grant Number	Statutory Auth.	Cumulative Award	Applicant Name
83498901	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 100,000.00	CSU Fullerton Auxiliary Services Corp
83499401	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 105,000.00	Philippine Cncl for Ind Engy&Emg Tech Rsch&Dev
83499601	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 100,000.00	Siberian State Industrial University SibSIU
83499701	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 229,530.00	Mongolian Nature and Environment Consortium
83500201	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 120,000.00	Appalachian State University
83500301	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 80,000.00	Lagos Waste Management Authority
83500801	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 210,803.00	VA Polytechnic Inst/State University
83502301	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 180,000.00	Instytut Nafty i Gazu
83502401	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 150,000.00	ICLEI Mexico Gobiernos Locales
83502501	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 80,000.00	Faculty of Technical Sciences
83503101	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 74,624.00	Community Development Research
83503201	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 138,150.00	Winrock International
83503901	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 899,600.00	Bd of Regents Univ of Wisconsin
83505001	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 80,000.00	Community Development Research
83505401	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 170,143.00	NPO UGLEMETAN
83505501	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 164,565.00	Instituto Internacional de Recursos Renovables
83505601	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 120,000.00	Renewable Energy Agency
83505701	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 151,025.00	Asoc Para El Estudio de los Residuous Solidos
83505801	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 140,000.00	China Coal Information Institute
83506501	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 141,450.00	Inst of Env and Sust. Dev in Agriculture CAAS
83507701	National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442	$ 15,000.00	Purdue University Main Campus
83507901	Clean Water Act: Sec. 104(b)(2) National Environmental Policy Act: Sec. 102(2)(F) Solid Waste Disposal Act: Sec. 8001	$ 15,000.00	University of Connecticut
83512701	Clean Air Act: Sec. 103 Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(f) Solid Waste Disposal Act: Sec. 8001	$ 48,100.00	Asociacion Privada de Desarrollo Soc y Ambiental
83512801	Clean Air Act: Sec. 103 Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(f) Solid Waste Disposal Act: Sec. 8001	$ 50,000.00	Alianza ONG
83514801	Clean Air Act: Sec. 103 National Environmental Policy Act: Sec. 102(2)(f)	$ 425,000.00	Board of Regents NV Sys - Desert Research Inst
83516101	Clean Air Act: Sec. 103 National Environmental Policy Act: Sec. 102(2)(f)	$ 1,000,000.00	Nordiska Miljofinansieringsbolaget
83517801	National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442	$ 499,746.00	ThRFCThCC - The Rsrch Fdn CUNY- The City College
83601901	National Environmental Policy Act: Sec. 102(2)(F) Safe Drinking Water Act: Sec. 1442	$ 14,882.00	The University of North Carolina at Chapel Hill
83604401	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 44,684.00	Green Empowerment
83604601	Clean Air Act: Sec. 103, Clean Water Act: Sec. 104 National Environmental Policy Act: Sec. 102(2)(F)	$ 160,000.00	Abrelp Associacao Brasileira De Empres De Limp Pub
83604701	Clean Air Act: Sec. 103	$ 80,000.00	Org. for Economic Coop. and Dev.
83611401	Clean Air Act of 1963: Sec. 103 as amended (PL 95-95) National Environmental Policy Act: Sec. 102(2)(F)	$ 100,000.00	EnEffect- Center for Energy Efficiency
00J32301	Clean Water Act: Sec. 104(b)(3), National Environmental Educ. Act: Sec. 6	$ 60,250.00	Environment Canada

HEC - International Grants - Jan 2009 to Present with Stat Auth.

Grant Number	Statutory Auth.	Cumulative Award	Applicant Name

U.S. EPA Confidential

EC-P-1998-07

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 0 3 1995

MEMORANDUM

OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE

SUBJECT: Processing Requests for Use of Enforcement Discretion

FROM: Steven A. Herman
Assistant Administrator

TO: Assistant Administrators
Regional Administrators
General Counsel
Inspector General

In light of the reorganization and consolidation of the Agency's enforcement and compliance assurance resources activities at Headquarters, I believe that it is useful to recirculate the attached memorandum regarding "no action" assurances[1] as a reminder of both this policy and the procedure for handling such requests. The Agency has long adhered to a policy against giving definitive assurances outside the context of a formal enforcement proceeding that the government will not proceed with an enforcement response for a specific individual violation of an environmental protection statue, regulation, or legal requirement. This policy, a necessary and critically important element of the wise exercise of the Agency's enforcement discretion, and which has been a consistent feature of the enforcement program, was formalized in 1984 following Agency-wide review and comment. Please note that OECA is reviewing the applicability of this policy to the CERCLA enforcement program, and will issue additional guidance on this subject.

A "no action" assurance includes, but is not limited to: specific or general requests for the Agency to exercise its enforcement discretion in a particular manner or in a given set of circumstances (i.e., that it will or will not take an enforcement action); the development of policies or other statements purporting to bind the Agency and which relate to or would affect the Agency's enforcement of the Federal environmental laws and regulations; and other similar requests

[1] Courtney M. Price, Assistant Administrator for Enforcement and Compliance Monitoring, Policy Against "No Action" Assurances (Nov. 16, 1984) (copy attached).

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for forbearance or action involving enforcement-related activities. The procedure established by this Policy requires that any such written or oral assurances have the advance written concurrence of the Assistant Administrator for Enforcement and Compliance Assurance.

The 1984 reaffirmation of this policy articulated well the dangers of providing "no action" assurances. Such assurances erode the credibility of the enforcement program by creating real or perceived inequities in the Agency's treatment of the regulated community. Given limited Agency resources, this credibility is a vital incentive for the regulated community to comply with existing requirements. In addition, a commitment not to enforce a legal requirement may severely hamper later, necessary enforcement efforts to protect public health and the environment, regardless of whether the action is against the recipient of the assurances or against others who claim to be similarly situated.

Moreover, these principles are their most compelling in the context of rulemakings: good public policy counsels that blanket statements of enforcement discretion are not always a particularly appropriate alternative to the public notice-and-comment rulemaking process. Where the Agency determines that it is appropriate to alter or modify its approach in specific, well-defined circumstances, in my view we must consider carefully whether the objective is best achieved through an open and public process (especially where the underlying requirement was established by rule under the Administrative Procedures Act), or through piecemeal expressions of our enforcement discretion.

We have recognized two general situations in which a no action assurance may be appropriate: where it is expressly provided for by an applicable statute, and in extremely unusual circumstances where an assurance is clearly necessary to serve the public interest *and* which no other mechanism can address adequately. In light of the profound policy implications of granting no action assurances, the 1984 Policy requires the advance concurrence of the Assistant Administrator for this office. Over the years, this approach has resulted in the reasonably consistent and appropriate exercise of EPA's enforcement discretion, and in a manner which both preserves the integrity of the Agency and meets the legitimate needs served by a mitigated enforcement response.

There may be situations where the general prohibition on no action assurances should not apply under CERCLA (or the Underground Storage Tanks or RCRA corrective action programs). For example, at many Superfund sites there is no violation of law. OECA is evaluating the applicability of no action assurances under CERCLA and RCRA and will issue additional guidance on the subject.

Lastly, an element of the 1984 Policy which I want to highlight is that it does not and should not preclude the Agency from discussing fully and completely the merits of a particular action, policy, or other request to exercise the Agency's enforcement discretion in a particular manner. I welcome a free and frank exchange of ideas on how best to respond to violations, mindful of the Agency's overarching goals, statutory directives, and enforcement and compliance priorities. I do, however, want to ensure that all such requests are handled in a consistent and coordinated manner.

Attachment

cc: OECA Office Directors
Regional Counsels
Regional Program Directors

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 16 1984

OFFICE OF
ENFORCEMENT AND
COMPLIANCE MONITORING

MEMORANDUM

SUBJECT: Policy Against "No Action" Assurances

FROM: Courtney M. Price
Assistant Administrator for Enforcement
and Compliance Monitoring

TO: Assistant Administrators
Regional Administrators
General Counsel
Inspector General

This memorandum reaffirms EPA policy against giving definitive assurances (written or oral) outside the context of a formal enforcement proceeding that EPA will not proceed with an enforcement response for a specific individual violation of an environmental protection statute, regulation, or other legal requirement.

"No action" promises may erode the credibility of EPA's enforcement program by creating real or perceived inequities in the Agency's treatment of the regulated community. This credibility is vital as a continuing incentive for regulated parties to comply with environmental protection requirements.

In addition, any commitment not to enforce a legal requirement against a particular regulated party may severely hamper later enforcement efforts against that party, who may claim good-faith reliance on that assurance, or against other parties who claim to be similarly situated.

This policy against definitive no action promises to parties outside the Agency applies in all contexts, including assurances requested:

- both prior to and after a violation has been committed;
- on the basis that a State or local government is responding to the violation;

- on the basis that revisions to the underlying legal requirement are being considered;

- on the basis that the Agency has determined that the party is not liable or has a valid defense;

- on the basis that the violation already has been corrected (or that a party has promised that it will correct the violation); or

- on the basis that the violation is not of sufficient priority to merit Agency action.

The Agency particularly must avoid no action promises relating either to violations of judicial orders, for which a court has independent enforcement authority, or to potential criminal violations, for which prosecutorial discretion rests with the United States Attorney General.

As a general rule, exceptions to this policy are warranted only

- where expressly provided by applicable statute or regulation (e.g., certain upset or bypass situations,

- in extremely unusual cases in which a no action assurance is clearly neccessary to serve the public interest (e.g., to allow action to avoid extreme risks to public health or safety, or to obtain important information for research purposes) and which no other mechanism can address adequately.

Of course, any exceptions which EPA grants must be in an area in which EPA has discretion not to act under applicable law.,

This policy in no way is intended to constrain the way in which EPA discusses and coordinates enforcement plans with state or local enforcement authorities consistent with normal working relationships. To the extent that a statement of EPA's enforcement intent is necessary to help support or conclude an effective state enforcement effort, EPA can employ language such as the following:

"EPA encourages State action to resolve violations of the _____ Act and supports the actions which _____(State) is taking to address the violations at issue. To the extent that the State action does not satisfactorily resolve the violations, EPA may pursue its own enforcement action."

I am requesting that any definitive written or oral no action commitment receive the advance concurrence of my office. This was a difficult decision to reach in light of the valid concerns raised in comments on this policy statement; nevertheless, we concluded that Headquarters concurrence is important because the precedential implications of providing no action commitments can extend beyond a single Region. We will attempt to consult with the relevant program office and respond to any formal request for concurrence within 10 working days from the date we receive the request. Naturally, emergency situations can be handled orally on an expedited basis.

All instances in which an EPA official gives a no action promise must be documented in the appropriate case file. The documentation must include an explanation of the reasons justifying the no action assurance.

Finally, this policy against no action assurances does not preclude EPA from fully discussing internally the prosecutorial merit of individual cases or from exercising the discretion it has under applicable law to decide when and how to respond or not respond to a given violation, based on the Agency's normal enforcement priorities.

cc: Associate Enforcement Counsels
OECM Office Directors
Program Compliance Office Directors
Regional Enforcement Contacts