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1. Mr. Hawkins did not answer submitted questions for the record by the time of publication.
2. The report has been retained in committee files and also is available at https://docs.house.gov/meetings/IF/IF18/20200609/110773/HHRG-116-IF18-20200609-SD011.pdf.
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POLLUTION AND PANDEMS: COVID–19’S DISPROPORTIONATE IMPACT ON ENVIRONMENTAL JUSTICE COMMUNITIES

TUESDAY, JUNE 9, 2020

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENVIRONMENT AND CLIMATE CHANGE,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The subcommittee met, pursuant to call, at 12:00 p.m., via Cisco Webex online video conferencing, Hon. Paul Tonko (chairman of the subcommittee) presiding.

Members present: Representatives Tonko, Clarke, Peters, Barragan, McEachin, Blunt Rochester, Soto, DeGette, Schakowsky, Matsui, McNerney, Ruiz, Dingell, Pallone (ex officio), Shimkus (subcommittee ranking member), Rodgers, McKinley, Johnson, Flores, Mullin, Carter, Duncan, and Walden (ex officio).

Also present: Representatives Rush, Castor, Sarbanes, Kennedy, and Burgess.

Staff present: Jeffrey C. Carroll, Staff Director; Jacqueline Cohen, Chief Environment Counsel; Adam Fischer, Policy Analyst; Waverly Gordon, Deputy Chief Counsel; Tiffany Guarascio, Deputy Staff Director; Anthony Gutierrez, Professional Staff Member; Caitlin Haberman, Professional Staff Member; Rick Kessler, Senior Advisor and Staff Director, Energy and Environment; Brendan Larkin, Policy Coordinator; Dustin J. Maghamfar, Air and Climate Counsel; Elysia Montfort, Press Secretary; Joe Orlando, Executive Assistant; Kaitlyn Peel, Digital Director; Tim Robinson, Chief Counsel; Nikki Roy, Policy Coordinator; Jen Barblan, Minority Chief Counsel, Oversight and Investigations; Mike Bloomquist, Minority Staff Director; Jerry Couri, Minority Deputy Chief Counsel, Environment and Climate Change; Jordan Davis, Minority Senior Advisor; Theresa Gambo, Minority Financial and Office Administrator; Tyler Greenberg, Minority Staff Assistant; Tiffany Haverly, Minority Communications Director; Peter Kiely, Minority General Counsel; Mary Martin, Minority Chief Counsel, Environment and Climate Change; Brandon Mooney, Minority Deputy Chief Counsel, Energy; and Brannon Rains, Minority Legislative Clerk.

Mr. Tonko. Good afternoon.

The Subcommittee on Environment and Climate Change will now come to order. Today, the subcommittee is holding a hearing entitled “Pollution and Pandemics: COVID–19’s Disproportionate Impacts on Environmental Justice Communities.”
Due to the COVID–19 public health emergency, today’s hearing is being held remotely. All Members and witnesses will be participating via video conferencing. As part of our hearing, microphones will be set on mute for purposes of eliminating inadvertent background noise. Members and witnesses, you will need to unmute your microphone each time you wish to speak. Documents for the record can be sent to Adam Fischer at the email address we have provided to staff. All documents will be entered into the record at the conclusion of the hearing.

I now recognize myself for 5 minutes for an opening statement.

OPENING STATEMENT OF HON. PAUL TONKO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

COVID–19 obviously has drawn a lot of attention, and as an epidemic, we know that it has exposed and, in many cases, worsened long-standing environmental injustices. Communities exposed to particulate matter and other air pollutants that cause asthma, COPD, and other respiratory illnesses are now at even greater risk of death from COVID–19, a devastating illness that we know is disproportionately impacting communities and affecting minority and low-income communities.

According to a recent CDC analysis, African Americans represented 33 percent of COVID-hospitalized patients and nearly a quarter of COVID deaths, despite only comprising 18 percent of the communities studied. These disparities are even greater in certain communities. EPA has taken numerous deregulatory actions over the past 3½ years, including adopting a nonenforcement policy during the pandemic, leaving many communities wondering who, if anyone, will stand up to protect their health and their safety from very real and lasting harm.

Our members of this subcommittee have made environmental justice a top priority, and we are committed to ensuring environmental justice is central to our work moving forward.

I want to recognize and thank several of our subcommittee members, in particular, Dr. Ruiz and Mr. McEachin, who fought to include language in the HEROES Act to codify EPA’s environmental justice grants program, and provide up to $50 million to build capacity of environmental justice community groups. The HEROES Act also requires States and utilities receiving Federal emergency funds to take steps to prevent water and energy shutoffs for the duration of the COVID–19 emergency and establishes a new program to help people with payments for drinking water and wastewater expenses. I want to recognize Mrs. Dingell for her leadership on these vital measures.

These are good and important policies, but this work is nowhere close to done. Communities that have long faced the worst injustices continue to suffer more air pollution and vulnerability to our changing climate. Our approach must be equal to this challenge, building a comprehensive strategy that works to restore environmental justice for communities of color and low-income neighborhoods.

Today, we will hear from experts on how COVID is impacting communities that already face disproportionate harms from pollution. We welcome Ms. Patterson and Mr. Shay to the sub-
committee, and welcome back Mr. Ali. Thank you for grounding us in this timely and necessary discussion as we grapple with our national history and presence of systemic racism. We need to deepen our awareness of our environmental policies and their disproportional consequences.

There is a reason we call this convening a hearing. As Members of Congress, we need to listen, listen to the communities who have felt these unfair, unjust impacts for decades, listen to the experts who have done the work for years and are best prepared to offer meaningful perspectives and material solutions. And we must resolve to hear them, and then act accordingly to address these long-standing harms.

I look forward to hearing your perspectives on the intersection of environmental justice and COVID–19.

And I yield the remaining time to one of the great leaders in Congress on this issue, the subcommittee vice chair, Dr. Ruiz.

[The prepared statement of Mr. Tonko follows:]

PREPARED STATEMENT OF HON. PAUL TONKO

We know the COVID–19 pandemic has exposed and, in many cases, worsened longstanding environmental injustices.

Communities exposed to particulate matter and other air pollutants that cause asthma, C.O.P.D., and other respiratory illnesses are now at even greater risk of death from COVID–19, a devastating illness that we know is disproportionately affecting minority and low-income communities.

According to a recent CDC analysis, African Americans represented 33 percent of COVID hospitalized patients, and nearly a quarter of COVID deaths, despite only comprising 18 percent of the communities studied. These disparities are even greater in certain communities.

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There is a reason we call this convening a “hearing.” As Members of Congress, we need to listen. Listen to the communities who have felt these unfair, unjust im-
pacts for decades. Listen to the experts who have done this work for years and are best prepared to offer meaningful perspectives and material solutions. And we must resolve to hear them and then act accordingly to address these long-standing harms.

I look forward to hearing your perspectives on the intersection of environmental justice and COVID–19, and I yield the remaining time to one of the great leaders in Congress on these issues, the subcommittee vice chair, Dr. Ruiz.

Mr. TONKO. Dr. Ruiz.

Mr. RUÍZ. Thank you, Chairman Tonko and the witnesses, for joining us today.

COVID–19 has exacerbated what we have known all along, that low-income rural communities and minority communities have greater disparities in health. One reason is because they are more likely to experience environmental justice disproportionately, breathing polluted air, and drinking dirty water due to neglect or decisions by others that affect their environment. That is why I introduced H.R. 6692, the Environmental Justice COVID–19 Act, which would authorize $50 million for EPA EJ grant programs to monitor pollution and investigate the impact of COVID–19 on environmental justice communities.

I also introduced the comprehensive H.R. 3923, the Environmental Justice Act of 2019, which requires agencies to consider the environmental justice implications of their programs, policies and activities to help protect our communities and vulnerable populations. I want to thank Mr. Ali, one of our witnesses here today, who worked with us on this bill.

As a physician and someone who represents constituents who have experience too many environmental injustices, I am committed to working with members of this committee to create a cleaner and healthier environment for all.

Thank you. I yield back.

Chairman, you are on mute.

Mr. SHIMKUS. Thank you.

I am in DC with Congress Member McKinley and Congressman Johnson. I did check the doors to 2123. You did have them locked this time, so that is why we are down here, and it is great to be with you.

An important hearing. I know Doc Burgess also asked for racial disparities on health outcomes, so this kind of merges along with Dr. Burgess’s request, and he is joining us and waiving on to the hearing today.

Today’s hearing topic is especially timely, given all that the Nation has confronted in recent weeks. Amid the human toll of the pandemic from disease and deaths and unprecedented economic shutdown, our Nation is now having raw and necessary conversations in response to George Floyd’s tragic and unnecessary death.
Against this backdrop, this hearing aims to explore the impacts of the COVID–19 pandemic on minority, low-income and other disadvantaged communities around the Nation. I agree with the chairman’s comments announcing the hearing that we should focus on the resources to address the environmental and economic hardships the pandemic has laid bare. Nobody should dispute the human toll when economic opportunity abandons communities.

February’s testimony this year from the United Utility Workers Union in America described how harmful effects on family and the economic social and physical collapse of communities that followed the loss of good blue-collar and middle-class jobs, as factories pull out or power plants close down.

Whether community collapses from losing economic opportunity or not having the opportunity in the first place, the solution is the same: Remove barriers and provide incentives to lift economic prospects for those most in need. This is the surest way to help people, their health, and their environment.

The good news is there are practical policies and resources available to address some of the environmental issues, revitalization needs, and barriers to increasing economic opportunity for disadvantaged communities. During the subcommittee’s hearing on this subject last fall, we examined how EPA works to help ensure these communities have the information, the know-how to participate in local and State planning. Witnesses provided compelling examples how EPA’s technical assistance, EJ grants, and Land Revitalization and Brownfields Program improved environmental quality and economic prospect for communities, in large part, providing the front-end improvements that leveraged tremendous amount of additional private economic investment.

It is a credit to this committee’s bipartisan work of updating the Brownfields Program that today we can look forward to increased economic progress for low-income, minority, and other disadvantaged communities across the Nation that use these tools.

In terms of the pandemic and the environment, we are a long way from having a full picture of the relationship of COVID and pollution on low-income and minority communities. To be sure, CDC’s official data shows that there has been a disproportionate impact of COVID–19 on Black mortality overall in many States, but not all States. It is widely understood that pollution burdens can have a disproportionate impact on people with chronic underlying health problems, like diabetes, asthma, cardiovascular disease, and on disadvantaged communities, given all of these other factors that impact welfare and healthcare access. A one-off study should not prioritize how we address the problems. Congressional critics of the administration have cited a widely reported and criticized Harvard University study in early April to say EPA air quality decisions are off track. This study hypothesized that particulate matter levels increased COVID–19 risk. But even the unpublished paper’s senior author told The Washington Post that this was preliminary and the study should not be used for policymaking.

For committee purposes, it is more helpful to take lessons from EPA’s official annual air trends report, which was released yesterday, and I ask for unanimous consent that that be submitted for the record. This shows continued reduction in air pollution around
the Nation. It reports 40 percent reduction in the number of days listed as unhealthy for sensitive groups. This demonstrates that allowing States to implement existing standards continues to drive cleaner air and is positive news for everyone. Let’s focus on what worked.

In the same way, programs to accelerate economic opportunities should also be allowed to make a difference. For that reason, I would like to welcome Shay Hawkins today, president of the Opportunity Funds Association. Mr. Hawkins will talk about the great potential for bipartisan establishment of Opportunity Zones enacted in the 2017 Tax Cuts and Jobs Act, to tie into existing programs in low-income and disadvantaged communities to attract the private capital necessary to assist economic development and jobs creation. Mr. Hawkins can talk about how the program works, how it can work with existing EPA programs, and what can be done to improve and expand it to better address the pressing issues confronting disadvantaged communities today.

This is the kind of bipartisan program we should work with to the benefit of all people and communities in need as we seek economic recovery. And I look forward to discussion.

I also have with me, Mr. Chairman, a list of the economic zones in Illinois. There are 326 of them throughout the State, many in my district in rural, poor areas, but also 180 in Cook County.

And with that, I yield back my time.

[The prepared statement of Mr. Shimkus follows:]

PREPARED STATEMENT OF HON. JOHN SHIMKUS

Mr. Chairman, today’s hearing topic is especially timely given all the Nation has confronted in recent weeks.

Amid the human toll of the pandemic, from disease and deaths and the unprecedented economic shutdown, our Nation is now having raw and necessary conversations in response to George Floyd’s tragic and unnecessary death.

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Whether community collapse is from losing economic opportunity or not having the opportunity in the first place, the solution is the same: Remove barriers and provide incentives to lift economic prospects for those most in need. This is the surest way to help people, their health, their environment.

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It is a credit to this committee’s bipartisan work updating the Brownfields Program that today we can look forward to increased economic progress for low-income, minority and other disadvantaged communities across the Nation that use these tools.

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To be sure, CDC’s official data show that there has been a disproportionate impact of COVID-19 on Black mortality overall, and in many States (but not all States). And it is widely understood that pollution burdens can have a disproportionate impact on people with chronic underlying health problems like diabetes, asthma, cardiovascular disease, and on disadvantaged communities—given all the other factors that impact welfare and healthcare access.

But one-off studies should not prioritize how we address the problems.

Congressional critics of the administration have cited a widely reported, and critically, Harvard University study in early April to say EPA air quality decisions are off track. This study hypothesized that particulate matter levels increased COVID-19 risk, but even the unpublished paper’s senior author told The Washington Post that this was preliminary and the study should not be used for policymaking.

For committee purposes, it is more helpful to take lessons from EPA’s official annual air trends report, which was released yesterday. This shows continued reduction in air pollution around the Nation. It reports a 40 percent reduction in the number of days listed as unhealthy for sensitive groups.

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The is the kind of bipartisan program we should work with, to the benefit of all people and communities in need as we seek economic recovery. I look forward to the discussion.
nities have borne a disproportionate share of pollution and its health risks. It is these risks that are contributing to people of color dying from the coronavirus at significantly higher rates than others. And we have long known that particulate matter and other forms of air pollution cause respiratory disease, including asthma. We have also known that low-income communities and communities of color are exposed to higher concentrations of air pollution, because for years, polluters have chosen to build their facilities in these communities, and as a result, low-income people and people of color suffer greater incidence of respiratory disease and other adverse effects.

And now we have scientific evidence showing a direct link between communities living with more air pollution and high rates of COVID–19 deaths.

So we simply can't allow this to continue. And, unfortunately, the Trump administration is only making the public health and environmental crisis worse. When the Trump administration rolls back protections under the Clean Air Act, it hurts these communities most. When this administration announces that it will not enforce some environmental laws and regulations during the pandemic, that hurts these communities, too. And when President Trump issues an Executive order circumventing the National Environmental Policy Act, or NEPA, that completely cuts the voices of these communities out of the decision-making process.

So this subcommittee continues to focus on fighting for environmental justice, and Representative Ruiz, who already spoke, led the efforts to increase environmental justice grants in response to COVID–19 as part of the HEROES Act, which passed the House last month. Representative McEachin, the coauthor of that bill, has also been a leader in developing other comprehensive legislation on environmental and climate justice.

And I also wanted to thank Chairmen Tonko and Rush for working with me to include an environmental justice section in our CLEAN Future Act that we unveiled in January.

So this hearing is happening at a truly crucial moment in our Nation’s history. We are fighting a global pandemic, tens of millions of Americans have lost their jobs, and, of course, peaceful protestors are demanding racial justice following the murder of George Floyd. So, we have a lot of work to do.

[The prepared statement of Mr. Pallone follows:]

PREPARED STATEMENT OF HON. FRANK PALLONE, JR.

Today, we’re continuing this committee’s work to combat the COVID–19 pandemic by looking at its disproportionate impact on environmental justice communities. It’s heartbreaking to think that more than 100,000 Americans have died from this horrible virus.

It’s also alarming to see the devastatingly high rates of infection and death for communities of color, low-income communities, Native American communities, and fence-line communities. For example, communities that are adjacent to chemical plants or superfund sites.

We often refer to these communities as environmental justice communities, because they are the ones most in need of environmental justice. For too long, the people living in these communities have borne a disproportionate share of pollution and its health risks. It is these risks that are contributing to people of color dying from the coronavirus at significantly higher rates than others.
We have long known that particulate matter and other forms of air pollution cause respiratory disease, including asthma. We have also known that low-income communities and communities of color are exposed to higher concentrations of air pollution because, for years, polluters have chosen to build their facilities in these communities. As a result, low-income Americans and people of color suffer greater incidence of respiratory disease and other adverse health effects. And now, we have scientific evidence showing a direct link between communities living with more air pollution and high rates of COVID–19 deaths.

We simply cannot allow this to continue, and unfortunately, the Trump administration is only making this public health and environmental crisis worse. When the Trump administration rolls back protections under the Clean Air Act it hurts these communities most. When this administration announces that it will not enforce some environmental laws and regulations during the pandemic, that hurts these communities, too. And when President Trump issues an Executive order circumventing the National Environmental Policy Act, or NEPA, that completely cuts the voices of these communities out of the decision-making process.

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I want to thank the witnesses for joining us today. It is imperative that we listen to the needs of environmental justice communities as part of our ongoing response to the COVID–19 pandemic. We should all be committed to pursuing environmental justice and ensuring a safe environment for all Americans.

Mr. PALLONE. I just want to thank the witnesses for joining us today, and I wanted to yield the 2 minutes I have left, Mr. Tonko. First, a minute to Mr. McEachin, and then 1 minute to Representative Rush. So I yield now to Representative McEachin first.

Mr. MCEACHIN. Thank you, Chairman Pallone, and thank you for yielding your time and lending us your leadership.

As people across our country come together to pray for peace and demand action, I am proud to serve with you on a committee that recognizes its role and its responsibility to fight injustice. The pain and anger brought about by the deaths of George Floyd, Ahmaud Arbery, Breonna Taylor, and too many other Black Americans has forced our Nation to have a real and urgent discussion about systematic racism and inequality.

Like those before me, I know firsthand the dissonance of a lived experience that does reflect the inalienable rights of every American. Like those before me, I have hoped and prayed that swift action will finally be taken to protect Black lives from violence.

In watching Americans of all races and backgrounds take to the streets, it has shown me that our Nation is at a critical point. We can, must, and we are, rising together to fight for justice in all its forms. For too long, Black and brown and underserved communities have suffered the devastating impacts of environmental justice living on the front lines of our climate crisis and fence lines of polluting industries, also without the necessary resources to respond to the impacts, nor the influence in the political process to promote equitable outcomes.
The fact that Black Americans disproportionately die of COVID–19 exposes the deadly consequences of this truth. It is a truth that we cannot and will not accept.

Mr. Chairman, I yield back.

Mr. PALLONE. If there is any time left, Mr. Chairman, I would like to give it to Mr. Rush.

Mr. TONKO. We will yield a few—or half a minute to Mr. Rush, please.

Mr. Rush. Mr. Chairman, can you hear me?

Mr. TONKO. I can hear you.

The chairman has yielded to you, Representative Rush.

[No audio.]

Mr. Rush. Can you hear me now?

Mr. TONKO. We can hear you now. Sorry, Bobby.

Mr. Rush. Thank you, Mr. Chairman, and I want to thank Chairman Pallone for yielding to me.

The COVID–19 pandemic has brought our Nation to a screeching halt. Where we place our most vulnerable communities, especially the Black and brown communities, these wounds have not in fact diminished and they have not waned at all. These communities remain ever present in our healthcare system, our criminal justice system, and even in the air that we breathe and the water that we drink.

While our Nation mourns the loss of George Floyd and other victims of systemic racism, we must not forget the myriad of other injustices that are facing our communities. We must use this increased focus as an opportunity to shine a bright light on important issues, such as environmental justice issues and issues of the environmental justice community.

With that, I thank Chairman Pallone, and I thank you, Mr. Chairman, for your extraordinary leadership and for convening today's critical hearing.

And I yield back.

Mr. TONKO. Thank you. The gentleman yields back. The chair yields back.

The Chair now recognizes Mr. Walden, ranking member of the full committee, for 5 minutes for your opening statement.

Representative Walden.

OPENING STATEMENT OF HON. GREG WALDEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. WALDEN. Thank, Chairman Tonko. Thank you to Chairman Pallone as well.

I know Mr. Flores was trying to get back into the system. He got knocked out, just for our technical folks.

The last 3 months have exposed the deep challenges our country faces. The coronavirus pandemic swept across the globe. It left in its wake tremendous loss of life, including more than 110,000 of our citizens who lost their lives in the United States alone, massive economic upheaval with tens of millions of American workers losing their jobs, and drastic adjustments to each of our daily lives.

And then recently, our Nation was rocked again by the senseless and unjust death of George Floyd. This incident highlighted the systemic challenges facing the Black community in America, and I
join those who have raised their voices to protest the deadly brutality imposed on George Floyd and other instances of shocking, unacceptable violence against minority communities in the United States.

I share everyone on this committee's call for real and sustained work to pursue reforms that will actually make a difference to successfully address these difficult and these complex issues. Listen, learn, act.

As a country, we should be listening to others with different viewpoints and backgrounds, learning about their experiences and feelings, and taking action to form a more perfect union that ensures justice and equality are available to all Americans regardless of skin colors.

In many ways, today's hearing seems to touch upon all of these different circumstances. There is bipartisan desire to explore how COVID–19 disproportionately impacted minority communities, whether it be socially, environmentally, or economically.

Indeed, last month, Dr. Burgess, the Republican leader on the Health Subcommittee, sent a letter to the Democrat majority requesting a hearing on racial disparities related to COVID–19 and how Congress can reduce these disparities. More examination is needed to understand those health outcomes and how to improve them, and I hope the majority will take Dr. Burgess up on his request.

Whether it is healthcare or the environment, one of the most important keys to addressing the challenges of community of color, including COVID–19, is economic development. Economic prosperity can bring employment opportunities, better healthcare, improved education, a healthier environment, more efficient emergency services, stronger tax base, and new infrastructure. We have seen this work in our committee that is done to help spur economic development across American communities.

For example, last Congress, we worked together to reauthorize and improve the EPA's Brownfields Program. Under this program, EPA awards grants to local communities to repurpose abandoned, closed, or underutilized sites into new infrastructure, such as parks and sports stadiums. It is estimated that $100,000 of Brownfields grant money on average be leveraged into 8½ jobs. Real dollars, real jobs, real change.

There are also Opportunity Zones programs, which was a bipartisan effort enacted in the 2017 Tax Cuts and Job Act. Opportunity zones are economically distressed communities located in urban, rural, and Tribal areas, selected by Governors of each State and territory and the mayor of DC. The Opportunity Zones program aims to encourage economic development in these areas through tax incentives, and we have seen encouraging results from this initiative.

So I look forward to hearing more about the program today, and how it can improve and enrich communities all across America.

According to one of our witnesses, Mr. Hawkins, the head of the Opportunity Funds Association, nearly $10.8 billion has been secured by the Opportunity Funds prior to COVID–19. Again, real dollars, real change, and that will result in real jobs and real economic opportunities. Everyone sacrificed during this economic shut-
down, but without question, hourly workers and distressed economic communities have suffered the most. Construction workers alone lost almost a million jobs just in April. Workers that can telecommute have been inconvenienced but have not felt the economic pain suffered by these other groups.

That is why, if we care about these communities, we need to reopen the economy and do it safely.

We also need to reject overly burdensome regulations that might sound good in a sound bite but do little to help the environment while keeping workers from finding good-paying jobs.

Throughout my congressional career, I have focused on solutions, on identifying and understanding challenges and then working together to find bipartisan, effective solutions to those challenges. My Republican colleagues and I sincerely believe that economic development, as well as employment and educational opportunities, are key solutions to addressing many of the disparities for rural, minority, and economically distressed communities. Those are foundational tools for a prosperous society and a vital community. Translation: Real dollars, real jobs, real change.

So I look forward to hearing from our witnesses today, and I thank you, Mr. Chairman, for holding this hearing, and I yield back the balance of my time.

[The prepared statement of Mr. Walden follows:]
$100,000 of Brownfields grant money, on average, can be leveraged into 8.5 jobs. Real dollars, real jobs, real change.

There is also the Opportunity Zones program, which was a bipartisan effort enacted through the 2017 Tax Cuts and Jobs Act. Opportunity Zones are economically distressed communities, located in urban, rural and Tribal areas, selected by Governors of each State and territory and the mayor of DC. The Opportunity Zones program aims to encourage economic development in these areas through tax incentives, and we have seen encouraging results from this initiative.

I look forward to hearing more about this important program today, and how it can improve and enrich communities across America. According to one of our witnesses—Mr. Hawkins, the head of the Opportunity Funds Association—nearly $10.8 billion dollars had been secured by Opportunity Funds prior to COVID-19. Again, real dollars, real change that will result in real jobs and economic opportunity.

Everyone has sacrificed during the economic shutdown, but without question hourly workers and distressed economic communities have suffered the most. Construction workers alone lost almost a million jobs in April. Workers that can telecommute have been inconvenienced but have not felt the economic pain suffered by these other groups. That is why if we care about these communities, we need to reopen the economy and we can do it safely. We also need to reject overly burdensome regulations that might sound good in a sound bite but do little to help the environment while keeping workers from finding good paying jobs.

Throughout my congressional career, I have focused on solutions—identifying and understanding challenges and then finding bipartisan, effective solutions to those challenges. My Republican colleagues and I sincerely believe that economic development as well as employment and education opportunities are key solutions to addressing disparities for rural, minority and economically distressed communities. These are foundational tools for a prosperous society and a vital community. Translation—real dollars, real jobs, real change.

I look forward to hearing from our witnesses today on this important topic, and I thank the chairman for having this hearing. With that, I yield back.

Mr. Tonko. You are most welcome. The gentleman yields back.

The Chair would like to remind Members that, pursuant to committee rules, all Members' written and opening statements shall be made part of the record.

We now move to our witnesses, and I will now introduce the witnesses for today's hearing.

First we have Ms. Jacqueline Patterson, senior director of the Climate and Environmental Justice Program at the NAACP. Next, we have Mr. Mustafa Santiago Ali, vice president of Environmental Justice Climate and Community Revitalization of the National Wildlife Federation. And then, finally, we have Mr. Shay Hawkins, who serves as president of the Opportunity Funds Association.

I now recognize Mr. Patterson—excuse me, Ms. Patterson—for 5 minutes, to provide an opening statement.

STATEMENTS OF JACQUELINE PATTERSON, SENIOR DIRECTOR, ENVIRONMENTAL AND CLIMATE JUSTICE PROGRAM, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE; MUSTAFA SANTIAGO ALI, VICE PRESIDENT, NATIONAL WILDLIFE FEDERATION; AND SHAY HAWKINS, PRESIDENT, OPPORTUNITY FUNDS ASSOCIATION

STATEMENT OF JACQUELINE PATTERSON

Ms. Patterson. Thank you so much. I appreciate you. Thank you so much to the Committee on Energy Commerce and its Subcommittee on Environment and Climate Change. A special thank you to Anthony and Adam, who stuck with me in spite of my noncompliance with all logistical directions leading up to these remarks. Anyway, thank you all for your leadership and convening this critical conversation, particularly in these times when the
chronic and systemic racial disparities are in the spotlight for our Nation.

As we all know, the same systemic inequities that make certain populations differentially vulnerable to various impacts from the COVID–19 pandemic are the same systemic underpinnings that comprise the root causes driving environmental injustice, including climate change. Racism, xenophobia, sexism, combined with poverty, housing insecurity, racial profiling, differential access to healthcare, underresourced education, privatized criminal justice, and disproportionate exposure to pollution that attacks the lungs, rendering communities even more vulnerable to COVID–19 that also targets the lungs, these are all critical commonalities.

One recent study found that even small increases in fine particulate matter, such as PM$_{2.5}$, have an outsized effect on COVID–19 in the United States. An increase of just 1 microgram per cubic meter corresponded to a 15 percent increase in COVID–19 deaths. Evidence shows that people who have been living in places that are more polluted over time, they are more likely to die from the coronavirus. In one study—in the same study, which looked at 3,080 counties in the United States, people who had lived in counties with long-term pollution exposure for 15 to 20 years had significantly higher mortality rates, likely due to the higher risk of existing respiratory and heart diseases in the areas of high pollution, and these are our communities.

To add to the injustice, African-American and Latino-American people are typically exposed to 56 and 63 percent more PM$_{2.5}$ pollution than they produce through consumption and daily activities, yet another dimension to the injustice.

Furthermore, the health effects associated with indoor air pollution include respiratory illnesses, heart disease, and cancer, each of which have been linked to increased vulnerability to mortality due to COVID–19. And, once again, African Americans are more likely to have respiratory conditions exacerbated by indoor air pollution.

Once again, we have a response by the administration that prioritizes protecting the profits of big corporations while comparatively neglecting to advance action at the scale and depth that truly upholds the well-being of people.

As we talked about in our NAACP Fossil Fueled Foolery report last year, the tie between corporate interests and some of our policymakers and our policies are far too enmeshed. And so, instead of strengthening regulations to reinforce protections for our communities that are made vulnerable by poor air quality, we have an administration that has rolled back over 100 regulations in the context of COVID–19, thereby paving the pathway to poisoning of our communities.

All of this combines to ensure that black, indigenous, and other communities are facing the harshest fallout of direct impacts of COVID–19, just as we in the EJ community saw in Hurricane Katrina, the BP oil drilling disaster, and more, in each and every one of these disasters, including the COVID–19 pandemic.

With racism as a through-line that imperils us at every turn, not just in extreme circumstances such as disasters, but merely when we are walking in a park, making a purchase in a store, jogging down the streets, sleeping in a dorm hallway, sleeping in our own
bedrooms, in our own homes, or merely just breathing air. These are simple actions that white American people take for granted that is not as risky to their very existence, but time and time again, we have seen how structural inequities lead to inequities in health, well-being, and our very existence on Earth.

Modern-day redlining leads to underresourced infrastructure and lack of choices in our communities. We have 71 percent of African Americans living in counties in violation of Federal air pollution standards. We have the domination of policies by big agriculture, and domination of our markets with foods high in sodium, sugar, and preservatives. We are more likely to get a Cheeto or a Dorito than quinoa or kale.

The lack of green space has made us less likely to exercise, and the combination of these factors leads to the very illnesses that have made us more vulnerable to COVID–19 at worst, and shortens our lifespan and quality of life even in the absence of this pandemic. At every turn, the deck is stacked against us, and the very people who pay the price include people like Louisiana matriarch Antoinette Franklin and her three sons, living in one of our Nation’s most polluted petrochemical corridors. They all died within days of each other of COVID–19.

To pivot to solutions, the good news is that our communities are organizing ourselves to build solutions to what is before us now with COVID–19, and including the challenge of climate change, given the common underpinnings and impacts.

Frontline communities are rising up and putting together platforms of reforms at the Federal, State, and local levels. At the same time, we are implementing changes on the front lines, forging linkages, organization to government entity, nonprofit to nonprofit, and so forth.

Communities are demanding reinstatement and strengthening of environmental regulations. We are demanding research and policy on racial impact analysis. We are doing our own testing and monitoring of air, water, and soil quality. We are calling for stronger regulations on household products and a more inclusive toxic-release inventory. Communities want policies that support localism and regenerative design, as well as clean energy and building and vehicle electrification.

Communities are calling for the retirement of coal debt of rural electric co-ops that are struggling to survive and serve their members only, and we are rising up against systemic racism.

Thank you so much. I will end by saying the people in power must get behind those on the front lines. Again, get behind the leadership of frontline communities to scale up, scale deep, and scale forward.

Thank you so much.

[The prepared statement of Ms. Patterson follows:]
Pollution and Pandemics: COVID-19's Disproportionate Impact on Environmental Justice Communities

REMARKS BY JACQUELINE PATTERSON

As we all know, the same systemic inequities that make certain populations differentially vulnerable to various impacts from the COVID-19 pandemic are the same systemic underpinnings that comprise the root causes driving environmental injustice including climate change. Racism, xenophobia, and sexism combine with poverty, housing insecurity, racial profiling, differential access to health care, under-resourced education, privatized criminal “justice”, and disproportionate exposure to pollution that attacks the lung rendering communities even more vulnerable to COVID-19 that also targets the lungs. These are all critical commonalities.

One recent study found that even small increases in fine particulate matter, known as PM2.5, have had an outsized effect on COVID-19 in the US. An increase of just 1 microgram per cubic meter corresponded to a 15% increase in Covid-19 deaths. Evidence shows that people who have been living in places that are more polluted over time, that they are more likely to die from coronavirus. In the study, which looked at 3,080 counties in the US, people who had lived in counties with long-term pollution exposure for 15-20 years had significantly higher mortality rates likely due to the higher risk of existing respiratory and heart diseases in areas of higher pollution. Air pollution is also known to weaken the immune system, compromising people’s ability to fight off infection.

To add to the injustice, African American and Latino American people are typically exposed to 56% and 63% more PM2.5 pollution than they produce through consumption and daily activities. In sharp contrast, non-Hispanic white people are typically exposed to 17% less pollution than they produce. Just as African American and Latino American people are less likely to contribute to the greenhouse gas emissions that drive climate change, yet we are more severely impacted by climate change.

Furthermore, health effects associated with indoor air pollutants include respiratory illnesses, heart disease, and cancer, each of which have been linked to increased vulnerability to mortality due to COVID-19. African Americans are more likely to have respiratory conditions exacerbated by indoor air pollution. COVID-19 has resulted in an increase in toxic poisoning due to exposure to cleaners and disinfectants. COVID-19 is compounding an already dangerous level of African American exposure to toxins between exposure at work and exposure through intense interactions and sanitizing during compliance with stay-at-home orders.

Once again, we have government responses that prioritize protecting the profits of big corporations while comparatively neglecting to advance a response at the scale and depth that truly upholds the wellbeing of people. As we talked about in the NAACP Fossil Fueled Foolery report last year, the tie between corporate interests and some of our policy makers and our policies are far too enmeshed. Instead of strengthening regulations to reinforce protections for communities made vulnerable by poor air quality, we have an administration that has rolled back over 100 regulations in the context of COVID-19 thereby paving a pathway to poisoning of our communities.

All of this combines to ensure that black, indigenous and other communities are facing the harshest fall out of direct impacts of COVID-19 just as we in the EJ community saw with Hurricane Katrina, the BP Oil Drilling Disaster, and beyond. In each and every one of these disasters, including the COVID 19 pandemic. With racism as a through-line that imperils us at every turn, not just in extreme circumstance such as disasters, but merely when we are walking in a park, making a purchase in the store, jogging down the street, sleeping in a dorm hallway, sleeping in our own bedroom, in our own homes or just breathing air. simple actions that white people take for granted as not risky to their very existence. Time and time again we’ve seen how structural inequities lead to inequities in health and wellbeing.
When I first drafted the NAACP 10 Equity Implications of the COVID-19 Pandemic in the United States document and people first looked at it, the reaction was, “Wow!! That’s a lot of information. Can’t we sum it up somehow?” And my response was, “Yes, we can put it all in buckets, sub-categories, and sub-bullets including. But when people begin to summarize, the most vulnerable, the most marginalized populations fall through the cracks, just as they do in a system that is predicated on a philosophy and set of policies and practices that favor a survival of the fittest mode of operating.”

Each marginalization factor, whether it’s gender, race/ethnicity, immigration status, incarceration, LGBTQ orientation, age, geography, disability, or poverty or more.... each factor stands as a risk on its own. And by definition, many compound on top of each other causing double and triple jeopardy for individuals, families and communities of color and low income communities. As such, the response systems must be led by groups who represent constituencies on the frontlines of impact.

Modern day redlining leads to under-resourced infrastructure and lack of choices in our communities. We have 71% of African Americans living in counties in violation of federal air pollution standards. We have the domination of policies by big agriculture and domination of our markets with foods high in sodium, sugar, and preservatives. The lack of green space has made us less likely to get exercise. Then the “war on drugs” has made our streets less safe. At every turn the deck is stacked against us.

Frontline communities must lead on designing and implementing the solutions.

To pivot to solutions, the good news is that our communities are organizing ourselves to build solutions to what’s before us now with COVID-19 and including the challenge of climate change given the common underpinnings and impacts.

Frontline communities are rising up and putting together platforms of demands at the federal, state, and local levels. At the same time we are implementing changes on the frontlines, forging linkages: organization to government entity, non-profit to non-profit, community to community, family to family to family, person to person.

Communities are demanding reinstatement and strengthening of environmental regulations. Communities are doing our own testing and monitoring of air, water, and soil quality. Communities are calling for stronger regulations on household projects and a more inclusive Toxics Release Inventory. Communities want policies that support localism and regenerative design as well as clean energy and building and vehicle electrification.

We are setting up locally controlled, sustainable food systems. Women are leading on restoring our relationship with the land. Women are pushing back on water shut-offs while establishing water sovereignty models. We are comforting those in mourning, while pushing for the policies and practices we need to establish a regenerative, caring economy that advances healthcare for all, frees people who are imprisoned, provides income for those whose livelihoods who are in jeopardy, provides protection for those who are on the frontlines, and the list goes on.... And those in power need to get behind those on the frontlines to scale up, scale deep, and scale forward! Thank you.
Mr. TONKO. Thank you for joining us, Ms. Patterson, and for your statement.
Next, we will recognize Mr. Ali. You are recognized for 5 minutes, sir.
Mr. Ali, you might have to unmute.
Mr. Ali. How’s that? Can you hear me now?
Mr. TONKO. We can hear you now. Thank you.
You have 5 minutes, please.

STATEMENT OF MUSTAFA SANTIAGO ALI

Mr. Ali. All right. Well, you missed the best parts in that first 3 seconds.
Chairman Tonko, Ranking Member Shimkus, and members of the committee, on behalf of the National Wildlife Federation, our 52 State and territorial affiliates and more than 6 million members, and environmental justice communities across the country, thank you for the honor of testifying before you today.
I was thinking about this testimony, and I was raised in a family of Baptist and Pentecostal ministers, deacons, and deaconesses, so my grandmother came to my mind, and she used to have a favorite verse, and it is Amos 5:24: “Do you know what I want? I want justice, oceans of it. I want fairness, rivers of it. That is what I want. That is all I want.” My grandmother used to say, “When you know better, do better.”
Today’s hearing comes at a critical moment in the history of our country. Frontline communities are under attack for multiple emergencies happening at the same time. Black communities are dealing with the systemic racism that has infected the policing in our communities that is literally choking us to death.
The rolling back of environmental rules and regulations has us gasping for air, due to the cumulative public health impacts of the burning of fossil fuels in our communities. COVID–19 continues to devastate Black and brown and indigenous communities, both in infections and deaths. So when we say, “I can’t breathe,” we literally can’t breathe.
Over 2 million Americans have been infected with the coronavirus and over 113,000 have died. Communities of color across our Nation’s health and wealth are being impacted by the burning of fossil fuels that is a significant driver in the climate crisis, and the impacts from the coronavirus that we find ourselves dealing with.
We have over 500,000 homeless citizens in our country, and many of them are at risk, both from air pollution and the lack of clean, accessible water, which is critical to both personal hygiene and the ability to protect oneself from COVID–19 infections.
The last time I joined you, I shared that disproportionately the majority of fossil fuel facilities are located in communities of color, lower-wealth communities, and on indigenous lands. Two-point-four million miles of pipeline is crisscrossing our country, traveling to indigenous land through farm country, and ends up on the Gulf Coast in vulnerable communities who often have to bear the burdens of the toxic exposures.
As has been mentioned earlier, in our country we have over 100,000 people who are losing their lives each year prematurely to
air pollution. That is more folks that are dying from toxic air than are dying from gun violence. We have 25 million with asthma and 7 million kids, and many of our communities of color and lower-income and lower-wealth communities are literally dying for a breath of fresh air.

We know that many of our communities are closely located to toxic facilities, and they are suffering from chronic medical conditions, heart disease, liver disease, kidney disease, and lung diseases, as well as the cancer clusters that we find across our country. We also know that these chronic medical conditions make people more susceptible to the coronavirus.

Unfortunately, we have communities who are also in medically underserved areas, which compounds the impacts by making it difficult to access proper medical advice and treatment.

To add additional insult to injury, the Trump administration decided to stop enforcing environmental laws, due to the pandemic. The current administration has also diligently been weak in U.S. environmental protections, even amid the coronavirus crisis, by rolling back the Clean Car Rule and instituting the Executive order rollback that we saw as weakening the National Environmental Policy Act, known as NEPA. Each of these current actions and a list of previous actions makes overburdened communities more vulnerable today and in the future.

I just want to hit a couple of quick facts that I want to make sure folks are aware of as I close out. In 2018, EPA's own National Center for Environmental Assessment shared a study focusing on particulate matter in our country that highlighted the fact that people of color are much more likely to live near pollution and breathe polluted air. The study went on to share that people in poverty are exposed to more fine particulate matter than people above poverty. And the International Agency for Research on Cancer named particulate matter as a known definite carcinogen, and has been named by the EPA as a contributor to a number of significant health conditions, along with heart disease, lung conditions, high blood pressure, low birth weight for babies, and asthma.

So I know I am about to run out of time, but I just want to mention a couple of quick things that we have to pay attention to. We have got 80 million people in our country who are uninsured and underinsured, which is creating an additional set of challenges. We talked about the medically underserved areas which are often also located in what we call frontline communities, or our most vulnerable communities. And we also know we have a wealth gap that exists inside of our country.

So I am thankful to this committee that you are thinking critically, one, about addressing the environmental and public health impacts that continue to happen, and how we also make sure that we are merging economic opportunities, and I am one who believes that we have an incredible amount in the clean energy space.

So I am looking forward to our conversation today and unpacking many of these challenges that still exist in a pathway forward.

[The prepared statement of Mr. Ali follows:]
Chairman Paul Tonko, Ranking Member Shimkus and Members of the Committee, on behalf of the National Wildlife Federation, our 52 state and territorial affiliates, more than 6 million members, and environmental justice communities across our country, thank you for the honor of testifying before you today.

Today's hearing comes at a critical moment in the history of our country. Front-line communities are under attack from multiple emergencies happening at the same time. Black communities are dealing with the systemic racism that has infected the policing in our communities that is literally choking us to death. The rolling back of environmental rules and regulations has us gasping for air due to the cumulative public health impacts from the burning of fossil fuels in our communities. Covid-19 continues to devastate black, brown and indigenous communities both in infections and deaths. When we say, “I Can’t Breathe” we literally can't breathe.

Over 2.0 million Americans have been infected with the coronavirus and over 113,000 have died. Communities of Color across our nation health and wealth are being impacted by the burning of fossil fuels that is a significant driver in the climate crisis and the impacts from the corona virus that we find ourselves dealing with. 500,000 homeless citizens of our country are also at risk from both air pollution and the lack of clean accessible water which is critical to both personal hygiene and the ability to protect one’s self from covid-19 infection.

The last time I joined you I shared that, disproportionately the majority of fossil fuel facilities are located in communities of color, lower wealth communities and on Indigenous lands. The 2.4 million miles of pipeline crisscrossing our country travels through Indigenous and Farm country and ends up on the gulf coast in vulnerable communities who often have to bare the burdens of toxic exposures.

In our country we have over 100,000 people who are losing their lives each year prematurely to air pollution, that’s more folks dying from toxic air than from gun violence. We have 25 million with asthma and 7 million kids. Many of our communities of color and lower-income communities are literally dying for a breath of fresh air. We know that many of the communities who are closely located to toxic facilities suffer from chronic medical conditions: heart, liver, kidney and lung disease, as well as cancers. We also know that these chronic medical conditions make people more susceptible to the corona virus. Unfortunately, these are the communities who
are also in medically underserved areas, which compounds the impacts by making it difficult to access proper medical advice and treatment.

To add additional insult to injury the Trump administration decided to stop enforcing environmental laws due to the pandemic. The current administration has also diligently been weakening US environment protections even amid the corona virus crisis by rolling back the clean car rule and instituting an Executive Order to weaken the National Environmental Policy Act (NEPA). Each of these current actions and a list of previous actions makes overburdened communities more vulnerable, today and in the future.

In 2018 EPA’s National Center for Environmental Assessment shared a study focusing on particulate matter with the country that highlighted the fact that people of color are much more likely to live near polluters and breathe polluted air. The study went on to share that people in poverty are exposed to more fine particulate matter than people living above poverty.

The International Agency for Research on Cancer named particulate matter as a known definite carcinogen, and it’s been named by the EPA as a contributor to a number of significant health conditions, heart attacks, lung conditions, high blood pressure, low birth weight in babies and asthma.

The National Center for Environmental Assessment found that black people are exposed to about 1.5 times more particulate matter than white people, and that Hispanics had about 1.2 times the exposure of non-Hispanic whites. The study found that people in poverty had about 1.3 times more exposure than people above poverty.

In 2016 Environment International highlighted a study that concluded long-term exposure to the pollutant pm2.5 is associated with racial segregation, with more highly segregated areas suffering higher levels of exposure.

These are just a few of the studies that show a correlation between air pollution and the impacts on communities of color. This also raises the question why would any administration weaken environmental standards that would put additional lives in danger?

These rollbacks play out in neighborhoods like the 48217 in Southwest Detroit where 1.6 million pounds of hazardous pollution is released each year from billowing smokestacks above schoolyards and day care centers, as they live in the shadow of the Marathon refinery. The exposures to these emissions place the residents at a greater risk from the virus. We know this from the recently released Harvard study which highlighted the fact that a small increase in long-term exposure to PM2.5 leads to 8% increases in the COVID-19 death rates.

African-Americans make up 13 percent of the country’s population and they make up 26 percent of deaths related to COVID-19. We see these elevated rates of infections and deaths in places that have a long history with being pollution dumping grounds like Trenton, NJ, Cancer Alley in Louisiana, and Chicago’s south side to name a few hot spots.
There are communities like the Manchester community in Houston, Texas and Port Arthur Texas surrounded by Petrochemical industries as far as the eye can see and each and every day the residents in these communities feel like they are breathing gasoline fumes and they are being disproportionately impacted by the virus.

We cannot forget the freedmen communities like Africa town in Alabama, founded by freed slaves who have been fighting against the impacts of the fossil fuel industry with their lives, as they are inundated with numerous immunosuppressant diseases and breathing difficulties to just name a few of the health impacts faced by our most vulnerable areas and neighborhoods. If this was not enough they now have to also deal with the additional impacts on their communities from both the corona virus and climate change.

These communities which have been the sacrifice zones for pollution are now also ground zero for the corona virus, and many of the storms, floods and other climatic events which we have witnessed over the past few years. In Princeville, NC also founded by freed slaves have been hit by not one but two major floods connected to hurricanes. Houston and Port Arthur, TX also severely damaged by Hurricane Harvey. The communities that have done the least to contribute to the warming of the planet are paying the greatest price. Many have still not been able to return to their neighborhoods to rebuild their homes, businesses and clinics that are critical at this time.

For all of the impacts that continue to happen in frontline communities there is a pathway forward. We can lessen many of these impacts both in our communities and on our planet by moving forward with a just and equitable transition from fossil fuels, where no one gets left behind and we lower the emissions that are playing a role in Covid-19 impacts and moving us toward a climate emergency tipping point.

Renewable energy jobs were booming across America, creating stable and high-wage employment for blue-collar workers in some of the country’s most fossil fuel-heavy states, just as the coal industry is poised for another downturn.

Economics are driving both sides of this equation. Building new renewable energy is cheaper than running existing coal plants as prices get cheaper every year. By 2025, almost every existing coal plant in the United States will cost more to operate than building replacement wind and solar within 35 miles of each plant.

Multiple states and utilities are setting 100% clean energy goals, creating new demand for workers to build solar panels and wind turbines. Planning for the inevitable coal-to-clean economic transition can create new economic opportunities in every corner of the country – and some forward-thinking policymakers are already heeding this lesson.

With the development of this new economy we must ensure that our most vulnerable communities who have been impacted by the pollution of the fossil fuel industry, the devastating effects of Covid-19 and climate impacts, can fully participate in this new set of opportunities.
The renewable energy industry has become a major U.S. employer. E2’s recent Clean Jobs America report found nearly 3.3 million Americans working in clean energy – outnumbering fossil fuel workers by 3-to-1.

Nearly 335,000 people work in the solar industry and more than 111,000 work in the wind industry, compared to 211,000 working in coal mining or other fossil fuel extraction. Clean energy employment grew 3.6% in 2018, adding 110,000 net new jobs (4.2% of all jobs added nationally in 2018), and employers expect 6% job growth in 2019. (Forbes 2019)

Frontline communities from the streets to the suites are addressing the disproportionate impacts happening in their communities, creating new economic opportunities and lowering the impacts of climate change, that is something that Democrats, Republicans and Independents should be able to support, because it just makes common sense and makes our country stronger and helps us to restart our economy in a way that benefits all our residents.

- New Alpha Development in Florence, SC has been conducting train the trainer events with lower-income residents. Over 100 people have now been trained on solar installation and they are now training Farmers who are trying to lower their electricity cost to maximize their shrinking profitability. They are also addressing food insecurity by growing local produce and providing it to their local food pantry.

- Across New York City, low-income tenants pay up to 13% of their income on traditional energy from fossil fuels. They also bear some of the highest burdens of climate change. Solar energy is one of the fastest ways to move communities from surviving to thriving. To grow solar in northern Manhattan, WE ACT has launched Solar Uptown Now, a campaign to bring northern Manhattan community members together to purchase solar as a group. The Solar Uptown Now model helps customers choose a solar installer that offers competitive, transparent pricing. Purchasing solar as a group helps to bring down the cost of solar installation for all participants. ¹

- Ivanhoe Community in Kansas City, which was once ravished by drugs and guns, unhealthy housing, illegal dumps, lack of green space and was a food desert. The community now has an urban farm, and a weekly farmers market – which significantly decreases the distance residents have to travel for fresh food. They’ve cleaned up the illegal dumps and replaced them with parks and playgrounds & they have new energy efficient homes for seniors and new and existing members of this thriving community.

- NYC-Environmental Justice Alliance, a 20+ year old organization that works relentlessly towards environmental and social equity in the city of New York by supporting the work of specific community organizations. One such organization is UPROSE, Brooklyn’s Sunset Park coalition, which has been working since the 1960s. With their motto, “Manufacturing Zones are the Engine of a Just Transition,” they propose Sunset Park’s

¹ https://www.weact.org/en/campaigns/solaruptownnow/
industrial zoning as a potential site for manufacturing and assembling renewable energy parts. This would keep renewable energy jobs local and place power and decision-making within the Sunset Park community, which is rapidly changing as it faces the effects of mega-gentrification. UPROSE is currently planning for community residents to become the first cooperative members in the nearby solar farm, which they have slated for completion by winter of 2020.2

- ReGenesis Project in Spartanburg, SC once dealing with the impacts from Brownfields & Superfund sites, Toxic facilities, Non-Energy efficient housing, Medically underserved area, lack of jobs and a number of other impacts. After receiving a $20,000 environmental justice small grant have been able to leverage that into over $270,000,000 in positive changes in their community. 500 new green and energy efficient homes, new transportation routes, new medical facilities and mobile health care units, new super market and a community center where seniors and youth come together. They are also moving forward on a 35-acre solar farm to zero out resident’s electricity costs (which also helps the environment by lowering greenhouse gas emissions) as well as breaking ground on an Aquaponics and Hydroponics center.

Projects that restore natural systems also create jobs. Restore America’s Estuaries reports that coastal restoration “can create more than 30 jobs for each million dollars invested” which is “more than twice as many jobs as the oil and gas and road construction industries combined.”

- In Louisiana, a proposed $72 million project to restore a 30,000-acre expanse of degraded marsh near downtown New Orleans known as the Central Wetlands Unit would create 689 jobs (280 direct jobs and 400 indirect and induced jobs) over the project’s life.14 Implementation of the entire $25 billion dollars of restoration in Louisiana’s Master Plan over the next fifty years would multiply those jobs hundreds of times over. In Florida, restoration of the Everglades will produce more than 442,000 jobs over the next 50 years and almost 23,000 short- to mid-term jobs for the actual restoration work. Restoring the Everglades is also predicted to produce a return of four dollars for each dollar invested.3

These are just a few examples of how change can happen when we support community driven solutions that help our economies and our planet. Yes, we can help our “Most Vulnerable Communities Move from Surviving to Thriving” in Appalachia, The Rust Belt, on the Gulf Coast and in areas across our nation. We can also ensure that communities of color no longer have to worry about taking their last breath due to inhumane policies and actions. In the words of my grandmother, “When You Know Better, Do Better.”

2 https://www.centerforthhumanities.org/blog/a-limited-guide-to-navigating-a-transition-to-renewables-and-avoiding-the-sharks
3 https://books.google.com/books?id=DbD3THP4s9wC&lpg=PA69&dq=Everglades%20will%20produce%20more%20than%20442%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%200%20%20
Mr. Tonko. Thank you, Mr. Ali, and thank you for your presentation. We look forward to the conversation.

And now, Mr. Hawkins, welcome again. Thank you for joining us. You are now recognized for 5 minutes, and please unmute if you haven’t.

**STATEMENT OF SHAY HAWKINS**

Mr. Hawkins. All right. Well, Chairman Tonko, Ranking Member Shimkus, and the members of the committee, it is a pleasure to be with you today. I am the president of the Opportunity Funds Association, a trade association whose members are entrepreneurs, investors, developers, and fund managers operating in Opportunity Zones.

The Opportunity Funds Association is an advocacy, education, and communications organization established to enable our members to participate in public policy, share best practices, and communicate the industry’s contributions to distressed rural and urban communities across the country.

So, through our members, we connect capital to overlooked areas, improving lives, creating opportunities, and ensuring the long-term economic growth in America’s most vulnerable communities.

So, prior to co-founding the Opportunity Funds Association, I was tax counsel for Senator Tim Scott, representing South Carolina, and while working for Senator Scott I was helping him to champion the Investing and Opportunity Act. The Investing and Opportunity Act was a bipartisan piece of legislation that was authored on the Senate side by Senator Cory Booker and Senator Tim Scott, and the House-side version was authored by Representative Ron Kind and Representative Pat Tiberi.

This legislation allows individuals or corporations with a capital gain to defer payment of taxes on that capital gain provided that they reinvest that capital gain in one of 8,700 distressed communities across the 50 States, five territories, and the District of Columbia. The areas that are eligible for this benefit were selected by Governors. Every Governor was able to designate 25 percent of the economically distressed census tracts in their State or territory as Opportunity Zones. And so, that selection process happened shortly after the Opportunity Zone provision, which was based on the Investing and Opportunity Act, was passed and the Tax Cuts and Jobs Act.

And so, when we are looking at the residents of these designated Opportunity Zones, we are looking at areas that have a higher than normal population of African Americans, a higher than average population of nonwhites overall. We are looking at areas with a higher poverty rate, obviously. We are looking at areas that also have lower median incomes and higher rates of brownfields.

So, of the Opportunity Zones that were selected, about 10 percent of those—you know, those represented by 10 percent of U.S. census tracts overall, but they represent over 30 percent of America’s brownfields are found in these areas and in these census tracts. And so, you know, the Opportunity Zone provision provides a special chance that we have to help create jobs in areas for folks who are disproportionately affected by COVID–19.
So as of April 30, 2020, $10 billion have been attracted into opportunity funds, which are the vehicles that invest in Opportunity Zones, and Secretary Mnuchin estimates that over $100 billion will come into Opportunity Zones over the next decade. So it is a great tool.

Of the $65 million that have gone into brownfields remediation programs and those grants, of the 150 designated areas and designated grant projects, 118 of those are in areas that overlap with Opportunity Zones, so that the folks who are dealing with those remediation dollars will be able to also take advantage of the Opportunity Zone provision as well.

So, again, great potential here to help alleviate the conditions for folks who are living in Opportunity Zones that directly overlap with economic justice communities, and I look forward to talking to the committee about it.

[The statement of Mr. Hawkins follows:]
Testimony Before The Subcommittee on Environment and Climate Change of the Committee on Energy and Commerce

Shay Hawkins
President
Opportunity Funds Association

"POLLUTION AND PANDEMICS: COVID-19'S DISPROPORTIONATE IMPACT ON ENVIRONMENTAL JUSTICE COMMUNITIES"

June 9, 2020

Introduction

Chairman Tonko, Ranking Member Shimkus, and members of the committee: it is a pleasure to be with you today. I am the Co-founder and President of the Opportunity Funds Association (OFA), a trade association whose members are entrepreneurs, investors, developers and fund managers operating in Opportunity Zones. The Opportunity Funds Association (OFA) is an advocacy, education, and communications organization established to enable our members to participate in public policy, share best practices, and communicate the industry’s contributions to distressed rural and urban communities across the country. Through our members we connect capital to overlooked areas, improving lives, creating opportunities, and ensuring long-term economic growth in America’s most vulnerable communities. Prior to co-funding OFA I served as Tax Counsel to Senator Tim Scott (R-S.C) where I helped champion the Investing in Opportunity Act, legislation authored by Senators Tim Scott (R-SC) and Cory Booker (D-NJ) and Representatives Pat Tiberi (R-OH) and Ron Kind (D-WI). This legislation, which enjoyed broad bipartisan support, was the basis for the Opportunity Zones provision in the Tax Cuts and Jobs Act (TCJA) of 2017. The Opportunity Zones initiative is the most ambitious federal attempt to boost private investment in low-income areas in a generation. Over $10 billion has been raised for investment as of April 30, and Secretary Mnuchin estimates Opportunity Zones could drive as much as $100 billion into struggling communities over the coming decade. Opportunity Zones can be a key tool in helping local governments meet goals for sustainable and equitable development.

Since Opportunity Zones became law, OFA has worked closely with the Treasury department to ensure timely and effective implementation of the policy, closely with the White House Opportunity and Revitalization Council to encourage public and private investment in Opportunity Zone businesses, and closely with Congress to support legislation such as robust reporting requirements, that will ensure existing residents benefit from the capital attracted to their community.

In the testimony that follows, I will:

- Highlight key features of the Opportunity Zones incentive;
- Provide an overview of executive branch efforts to encourage public and private investment in distressed communities;
- Underscore what Congress can do to optimizer Opportunity Zones;
How The Incentive Works

The Opportunity Zones incentive is a community investment tool established by Congress in the Tax Cuts and Jobs Act of 2017 to encourage long-term investments in low-income urban and rural communities nationwide. Opportunity Zones provide a tax incentive for investors to re-invest their unrealized capital gains into dedicated Opportunity Funds.

While there have been a number of previous federal incentive programs aimed at boosting economic activity in underserved areas, this incentive can be used in a variety of ways, making it an important tool for financing a range of economic priorities across different types of communities. The policy is intended to support the creation of new economic value within communities, either by establishing something new, such as an operating business or commercial development, or by making large-scale improvements to existing businesses or assets within a community. The incentive is designed to reward patient capital, with the most significant benefit kicking in only after 10 years.

The communities themselves were selected by governors in each state based upon federal income and poverty criteria. Governors were allowed to designate up to 25 percent of the eligible census tracts as Opportunity Zones, which in turn makes certain investments in those areas eligible for a federal tax benefit.

How The Opportunity Zones Were Selected

Congress gave governors of every state and territory the critical lead role of selecting Opportunity Zones. Under the statute, each governor was allowed nominate up to 25 percent of his or her state’s low-income community census tracts to be designated as areas where the federal tax incentive will apply. Low-income community census tracts are generally defined as places with poverty rates of at least 20 percent or median family incomes no greater than 80 percent of the surrounding area. Nearly 32,000 tracts meet this definition nationwide, totaling roughly 43 percent of all U.S. census tracts. Thus, governors had to narrow the pool of eligible tracts down to roughly 8,700 selections. States identified priorities, engaged stakeholders, and incorporated additional selection criteria in ways that reflected their unique local characteristics. Governors were encouraged to strike the right balance between need and opportunity, as well as to select zones where there were mutually reinforcing state, local, and federal programs.

The Characteristics of Opportunity Zone

The bipartisan Economic Innovation Group analyzed the selected Zones and found the following:

- **Demographics:** 31.5 million people call Opportunity Zones home (35 million including Puerto Rico and the territories). The majority of Opportunity Zones residents, 57 percent, are non-white minorities, compared to 39 percent of the country as a whole. Black Americans are
particularly over-represented in Opportunity Zones, constituting nearly twice as large a share of the zone population as they do the national population.

- **Poverty:** In total, 7.9 million Americans residing in Opportunity Zones live in poverty. Opportunity Zones have an average poverty rate of 27.7 percent compared with the national poverty rate of 14.1 percent. Poverty rates rose in 53 percent of zones between the 2006-10 and 2014-18 periods.

Even though Opportunity Zones only cover one-quarter of the country’s low income census tracts, they cover 38 percent of all U.S. census tracts that have been persistently poor (with a poverty rate of at least 20 percent) since at least 1980. They cover 49 percent—essentially half—of the country’s pockets of concentrated persistent poverty, meaning census tracts in which at least 40 percent of the population has lived in poverty since at least 1980.

- **Population Density:** 23 percent of the tracts lie outside of a metropolitan area, making them slightly more rural than the low-income communities as a whole. In terms of the zip code in which tracts lie, Opportunity Zones are nearly evenly split at 38 percent in high density (urban) areas and 40 percent in low density (rural) ones, with the remainder located in medium density (suburban) communities.

- **Median Family Income:** The median family income (MFI) in the average Opportunity Zone is $47,316, compared to $73,965 nationally; the value in the median tract is $45,547. Fully three-fifths of zones have an MFI below $50,000.

- **Health Outcomes:** The Center for Disease Control and Prevention (CDC) publishes census tract level health data for 500 US cities. This dataset covers 3,500 Opportunity Zones, a little less than half of all Opportunity Zones. Even though the dataset is not comprehensive and only features urban areas, it does nonetheless provide a snapshot of the health challenges facing residents in a large number of Opportunity Zones. Individuals living in these Opportunity Zones are less likely to take advantage of preventative health services, such as flu shots, mammograms and dental care and more likely to suffer from medical conditions that include asthma, diabetes and heart disease versus those living in non-Opportunity Zone tracts. The average obesity rate in these Opportunity Zones is 7.4 percentage points higher (35%) than non-Opportunity Zone tracts and a third of residents of these Opportunity Zones did not participate in any leisure-time physical activity, compared to 24% of residents of non-Opportunity Zone tracts.

- **Food Access:** The U.S. Department of Agriculture provides data on “food deserts”, which are defined as low income census tracts without a full service grocery store within a 1 mile radius in urban areas or within a 10 mile radius in rural areas. While Opportunity Zones represent around 11 percent of all census tracts, they account for 24 percent of the nation’s food deserts. In total, 2,223 Opportunity Zones, or 28 percent of all zones, qualify as food deserts.

- **Brownfields:** Opportunity Zones, which represent only 10.7 percent of all U.S. census tracts, contain nearly one-third (32 percent) of the country’s brownfield sites, which are properties that have been contaminated by price (often industrial) use and typically stand vacant for years or
decades. All together the country’s 8,766 Opportunity Zones contain over 14,700 known brownfield sites.

- **Clean energy**: Clean energy is already taking root in Opportunity Zones. There are 475 solar energy installations producing more than 1MW of activity in Opportunity Zones, as well as 127 wind farms and 15 battery plants of at least the same capacity.

**Whitehouse Opportunity and Revitalization Council**

Economically distressed communities require more than private capital alone. Many of these communities are in need of public-sector support and regulatory streamlining to ensure they develop the foundations necessary to support a thriving private sector. Public investment in economic development, entrepreneurship, education and workforce training, and safe neighborhoods — along with guidance for engaging with investors and entrepreneurs — will help communities unlock private capital to create sustainable growth. Acknowledging this need, President Donald J. Trump signed Executive Order 13853 on December 12, 2018. This Order established the White House Opportunity and Revitalization Council to carry out the Administration’s plan to target, streamline, and coordinate Federal resources to be used in Opportunity Zones and other economically distressed communities. The White House Opportunity and Revitalization Council members have identified over 200 Federal programs where targeting, preference, or additional support could be granted to Opportunity Zones. As of April 30, 2020, the Council has already taken action on 273 grants or programs. As a part of this process, EPA is awarding 155 grants for communities and tribes totaling over $65.6 million in EPA Brownfields funding the agency’s Assessment, Revolving Loan Fund, and Cleanup Grant Programs. These funds will aid under-served and economically disadvantaged communities, including neighborhoods located in Opportunity Zones, in assessing and cleaning up abandoned industrial and commercial properties. Of the 151 total communities selected, 118 of these communities can potentially assess or clean up brownfield sites in census tracts designated in these zones.

**What Congress Should Do**

The most important step Congress can take to optimize sustainable growth in Opportunity Zones is to pass a bill adding reporting and transparency requirements to the policy. Senator Tim Scott along with Senators Sinema, and Grassley introduce a bill to this end. This bill would enable Treasury to collect key information on the location of Opportunity Zone investments, the types of businesses and projects attracting investment, and the number of jobs created. This information will enable Congress to adjust the policy to further incentivize investment in areas remaining underserved, and will demonstrate the viability of the policy as a community development tool.

Congress can also consider other reasonable adjustments to the policy such as creating gigabit opportunity zones to support the development of rural broadband, and legislation to allow existing community development organizations such as CDFIs to participate more directly in Opportunity Zones.
Mr. TONKO. Thank you very much, Mr. Hawkins. Thank you for joining us and thank you for your inputs.

That concludes our witnesses’ statements. We will now move to Member questions. I will now begin by recognizing myself for 5 minutes.

Again, let me thank our witnesses for their testimony. I believe it is critically important that we measure our response to the COVID pandemic by how we respond to the needs of our most vulnerable and most impacted citizens.

So, Ms. Patterson, from your perspective, why should environmental justice be an important component of addressing COVID–19?

Ms. PATTERSON. Thank you so much.

Yes, both from the direct connections that we see in terms of the places with high levels of pollution being the places where we see more of COVID–19 impacts, that is a direct correlation that calls on us to address air quality as a way of mitigating the impact of COVID–19. And then also, as I was saying before, the systemic underpinnings that make communities much more vulnerable to COVID–19 and to environmental injustices are something that we have to very explicitly address, or we are going to see ourselves in the same position time and time again going forward.

Thank you.

Mr. TONKO. Thank you so much.

And, Mr. Ali, why do you think it is necessary that our COVID response and recovery efforts be centered around righting what have been historic injustices?

Mr. ALI. Well, you know, there are a number of reasons why we have to do that. One, these injustices cost our country a huge amount of money in relationship to the healthcare impacts that are going on. It also affects a number of other things that go on in people’s lives in the communities that have been disinvested in everything from education, to housing, to a number of the other components that stop communities from being able to move from surviving to thriving, if you will.

So we have a huge amount of opportunity right now to redirect and reinvest in these communities, because the reality of this situation is that this is not the only pandemic that we are going to face, and if we are not willing to help these communities to become resilient and to build the foundation that are going to be necessary to deal with future pandemics, to deal with, you know, what we are going to have happening today and tomorrow in relationship to the climate emergency, then it is going to end up costing us much more. So it just makes sense to invest today and not wait until tomorrow.

Mr. TONKO. And many Members and stakeholders, including businesses, are talking about building back better. So, Mr. Ali and Ms. Patterson, do you think we can truly claim to be building back better if we don’t address historic and disproportionate pollution burdens?

Ms. PATTERSON. Hi. Thank you.

Very good question. Yes, I think it is impossible. We have to address the pollution burdens or we won’t be able to aid the people who should be leading in the building will have such a com-
promised existence in health that we won’t be able to build, and
to better is not possible when you have a whole swath of society that
is suffering under the myriad impacts of pollution. And the very
fact that, without addressing pollution, then the whole planet suf-
fers, so how is it possible to build back better?

Thank you.
Mr. TONKO. You are welcome. Thank you.
And, Mr. Ali?
Mr. ALI. Yes. You know, my father was an engineer and a build-
er and, you know, he used to often talk about foundations, and if
you leave a foundation that is not properly built and that is not
dealing with all of the aspects of the weight that it has to hold,
then it will crumble.

So we have an opportunity to actually build strong foundations
inside of our country. We have the resources. We have the ingen-
ui ty. We have the information that is necessary. What we need
to have is the will to prioritize, you know, addressing our past mis-
takes. You know, sometimes we get anchored to the past and, you
know, the egregious things that have happened. Well, yes, we
should understand our history, but we should also be focused on
the moment now and in the future that we can actually make real
change happen.

Mr. TONKO. Well, I am certain that we will hear many good, spe-
cific solutions this afternoon on how to instill environmental justice
in COVID response and economic recovery packages. So can you
provide some perspectives on how we should think about environ-
mental justice more broadly? How is it connected to racial justice
and economic justice?

Mr. ALI. Oh, I am sorry. I thought that that was for Ms. Patter-
son.
Mr. TONKO. No, no. That is for you.
Mr. ALI. Oh, I am sorry. I thought that that was for Ms. Patter-
son.
Mr. TONKO. No, no. That is for you.
Mr. ALI. Well, no. So first, let’s make sure we are setting the
table correctly. Environmental justice is an environmental issue,
but it is also a transportation issue, it is a housing justice issue,
it is a public health issue, and it is an economic justice issue and
a few other elements.

So, when we understand that and we take a holistic approach to
making positive change happen, then we find the intersection
points for numbers of different people who have expertise and re-
sources coming from different directions.

So that is where, I think, we should be starting. Lots of times
we will silo these issues. And, of course, committees have responsi-
ability for certain items, but I will raise up the fact that at the Envi-
ronmental Protection Agency, when I was there, I ran the inter-
agency working group that had 17 Federal agencies and a couple
of White House offices that we could be utilizing at this time to ac-
tually make sure that, one, we are better understanding the im-
pacts that are happening from COVID–19 on our most vulnerable
communities, but also how do we begin to marshal both all the ac-
tions that you all have been moving forward on, and the additional
things that frontline communities and others have been asking for
to actually holistically make our communities stronger and more
resilient.
Mr. TONKO. Thank you so much.

The Chair now recognizes Mr. Shimkus, our subcommittee ranking member, for 5 minutes, please, you may ask questions.

Mr. Shimkus.

Mr. SHIMKUS. Thank you, Mr. Chairman. And it is again great to be with all my colleagues and friends again.

You know, it is important to talk about our past mistakes, but I also think it is important to talk about past successes, and that is why I am glad that Mr. Hawkins is joining us today. Mr. Hawkins, you were a Senate tax and trade counsel for Senator Scott and helped him draft the Opportunity Zone provisions in the 2017 tax cut law. My understanding is that these provisions had wide bipartisan support. Can you talk about that bipartisanism briefly?

Mr. HAWKINS. Sure, sure, absolutely. So the original Investing and Opportunity Act, which the Opportunity Zones provision and tax reform was based off of, that Act had 44 House Democrats, 44 House Republicans, you know, by design. You know, folks were brought on to the bill two by two. And it also had 16 Senators: eight Republicans, eight Democrats. And, again, it was led on the Senate side by Senators Booker and Scott, and on the House side by Representatives Tiberi and Kind, and so we saw that bipartisanism there.

Mr. SHIMKUS. What was the reaction of local communities and governments to these provisions of the law?

Mr. HAWKINS. We saw a great reaction. One huge difference between this policy and, you know, pretty much every other community development program that is developed to this point is that we put so much in the hands of local Governors to select the zones, to select the areas that would benefit from this policy. And so, you know, the Governors, you know, across the country, you know, rose to the challenge, and they chose zones, you know, based on non-binding criteria. We asked them to look for areas that had a great need, areas where there was great opportunity, and areas where there were mutually reinforcing Federal, State, and local policy.

So, to a large extent, on the local level you see local municipalities and State governments stepping up to introduce complementary legislation to support the Opportunity Zones policy and really sort of put it on steroids, as it were. And so there has been great excitement on the State and local level.

Mr. SHIMKUS. And this included minority communities, Tribal communities, and economically distressed communities, didn’t it?

Mr. HAWKINS. Yes, absolutely. So the Opportunity Zones that were chosen, you know, the basic criteria, you know, you had to have a poverty rate above 20 percent and, you know, an average income, average median family income that is less than 80 percent of the State average, or, if you are near a large city, then 80 percent of the metro average.

So just in the basic criteria of what can be selected, you know, you are looking at distressed areas, but in what was ultimately selected, you know, you are looking at areas that are more heavily minority than normal. You are looking at areas that are lower median income than normal, and you are looking at areas that, you know, from an environmental standpoint, you know, encapsulate 30 percent of the Nation’s brownfields.
Mr. SHIMKUS. Right. And that is the convergence of what this committee of jurisdiction has done, too, is that brownfield reauthorization.

Mr. HAWKINS. Yes.

Mr. SHIMKUS. So, when you marry the two. In my opening statement, I did mention the Opportunity Zones in the State of Illinois—and we have 326 of them, some of them in my congressional district—they are rural poor. But again, out of that 326, 180 are found in Cook County. Obviously, Illinois is a big State where we have Cook County and everything north of I-80 and all the rest of us, so we look forward to that and trying to address the debate about how you rise people up, the best way to do that is jobs and empowering them. Then they can pay taxes to local community and economic development, and that has been our approach. So, as much as we want to take time about our failures in the past, I do think we need to take a timeout and say the Opportunity Zones legislation in H.R. 1, married with brownfield redevelopment, is doing a lot to help these communities. Wouldn't you agree?

Mr. HAWKINS. Absolutely. There are a lot of problems that could be solved with a good job, problems that affect all of us. And so, the goal of the policy is that everyone who has the ability to work had the opportunity to work.

Mr. SHIMKUS. Thank you very much.

Thank you, Mr. Chairman. I yield back.

Mr. TONKO. The gentleman yields back.

The Chair now recognizes Chairman Pallone of the Energy and Commerce Committee for 5 minutes, please.

Mr. PALLONE. Thank you, Chairman Tonko.

And I am so excited with the incredible optimism coming from these witnesses. I can't ask Mr. Hawkins a question because I have so many questions to ask of my other two witnesses, but I do want to say, Mr. Hawkins, first of all, I like the fact that you seem to have a picture of Teddy Roosevelt on the wall there, who's one of my favorite Republicans.

Mr. HAWKINS. Yes, yes.

Mr. PALLONE. You also mentioned my favorite presidential candidate in Senator Cory Booker, and, finally, you mentioned the Brownfields Program, which truly is, as Mr. Shimkus knows, bipartisan, and I was very fortunate to start the program with a bill when Christie Whitman, who was the Republican Governor of New Jersey, was the EPA Administrator. I worked on it with Paul Gillmor, and then we reauthorized it with John Shimkus.

So thank you for all of that, but I am moving on to my other two witnesses with my questions.

But I wanted to say, Mr. Ali, when you talked about—you did that biblical reference to the oceans and rivers associated with justice and fairness, that was so wonderful, from Amos, I think. You know, I live at the Jersey Shore, and I go down to the ocean sometimes at the end of the day, and I think of the ocean as a great equalizer, I really do. But at the same time, I know there is a lot of people, particularly minorities, that live near toxic waste sites, you know, don't have the opportunity maybe to look at the ocean and enjoy it the way that I do.
And I also wanted to say to Jacqueline Patterson, thank you so much for stressing the need for legislation in the advent of what we face today, that we have to concentrate on what we can do legislatively because we are legislators.

So my questions are about legislation and also input from the community. As I think you know—and I will ask both Mr. Ali and Ms. Patterson—we introduced in the HEROES Act, we had provisions to ensure access to affordable drinking water and to fund environmental justice grants. We also have been responding to environmental justice by putting these grants, which I mentioned before, in the HEROES Act for environmental justice communities.

So I wanted to ask you: Is this a good idea, what we have done? Are there other legislative initiatives that we should try to initiate? And then, secondly, impact from the communities, I am critical of President Trump because he has done all of these things to circumvent NEPA and cut funding for impacted communities and not enforce environmental regulations, and some of that is going to make it more difficult for those communities to have input into decision making. You know, we have the right to know. Senator Lautenberg always talked about the right to know. We have tag grants.

So my question is, legislation, what should we be doing and to have more input in the community and how, you know, some of these Trump actions are circumventing NEPA and making it more difficult for the communities to be heard, if you will. I know I took up a lot of time, but if you could just answer those two questions about legislation and getting input from the communities that might be limited now with Trump’s actions.

I will start with Ms. Patterson.

Ms. PATTERSON. Thank you so much. I appreciate that.

Yes, certainly, there are a number of actions legislatively that we are putting forward. I think the ones that you mentioned were definitely good in terms of provisions in the HEROES Act, and I specifically mentioned them. I actually don’t know whether this would be legislative or administrative, but I talked about the retirement of the coal debt that is being held by the rural electric co-ops who are really suffering during these times, for sure, as the member owners have compromised livelihoods.

Also, not only in terms of not restoring the regulations back, but also strengthening those regulations because they are always compromised by struggles to really have them be as strong as they should be. We also need to be making sure that we have—I know that in the HEROES Act, I believe there is a provision in terms of a moratorium on utility shutoffs.

We also need to be thinking about how do we make sure that we are ensuring reducing energy burden and ensuring affordability of energy across the board and what does that look like, and also making sure we are moving away from subsidizing fossil fuel energy that is causing so much of the pollution that is harming the health and well-being of frontline communities as well as the planet, which also causes harm as well.

And then I would just say, because I want to yield space for other folks, is that we need to be focusing now, you know, hurricane season started last Monday. We need to be focusing on predisaster mitigation because, as this combines with the disaster
that we are dealing with now with COVID–19, we need to be making sure that we have civil and human rights at the center of emergency management. We've seen past failures in that, and we've seen that come a long way, and we need to go further in terms of making sure that we have a standard, a new standard, that goes beyond returning homes to predisaster states that are so challenging, whether it is from indoor air quality, and otherwise, that we actually build back better, as we said earlier.

So those are just a few examples. I will yield the floor back. Thank you.

Mr. Ali. I would share that one of the other things that we need to also continue to expand upon is natural infrastructure. There are literally millions of jobs from a CCC type of paradigm that we could institute to actually help our country get back to work. So that is one of the areas.

The other one is around food deserts and food insecurity that we find in many of our communities of color and lower-wealth White communities. So we need to also be focused there because we have to have a healthy population.

You know, we talk a lot about jobs. When somebody is not healthy, they are not going to be able to work efficiently and effectively. So we have got to do that.

And then there is one that sometimes probably makes people a little nervous, but I have to share it anyway. We need to have stronger enforcement where needed.

And here is the interesting dynamic that we find.

Mr. Tonko. I think we are done with the 5 minutes there. I am sorry to cut you off. Maybe we can catch you in the next round of questioning.

Next, we recognize Mr. Walden, ranking member of the full Committee on Energy and Commerce, for 5 minutes of questioning, sir.

Mr. Walden. Well, thank you very much, Chairman Tonko.

And thanks again to all of our witnesses for your presentations, your answers to questions. Really helpful, especially for those of us out here in the West—where, by the way, it is pouring rain today. And so, anyway, we are glad you are here.

I want to say a couple of things before we get into the questions on the NEPA reform. As somebody that represents a district where over 55 percent of the landmass is controlled by the Federal Government, I have got a tiny, little, rural, impoverished community literally with probably two dozen people in it that took more than 3 years to go through the NEPA process to plant four power poles so they could finally get three-phase power into this low-income, rural part of my district. They had to put those power poles on BLM land, and it took them 3 years to go through a process. NEPA was never intended to cause that kind of delay. And so I am glad they are making some reforms in NEPA.

And I also want to say the Trump administration, frankly, in the economic policies that they have put in place, have given us, prior to COVID, the strongest economy and the lowest unemployment for every sector of America's economy we have seen. And so I think good-paying jobs, low-cost energy put America back on its feet. And, unfortunately, we had to shut everything down with COVID, as did everybody across the globe.
I want to ask Mr. Hawkins about the Opportunity Zones program. You have done a lot of work in this space. I think it has done a lot of good. There has been some criticism in the press, however, that the program just benefits wealthy real estate investors and doesn’t really help those in need. And I would love to get your take on that.

Mr. Hawkins. Sure. The policy primarily supports two different types of projects. You have real estate projects, and then you have operating businesses.

And so what we found is, once we passed the Opportunity Zones provision, from an implementation standpoint the rules that govern real estate were produced much, much more quickly than the rules that govern operating businesses. And that is because it is a little bit simpler, right? Real estate is all located within the census tract. All of the income comes from within the census tract, et cetera.

And so, because those regulations were out first, the real estate projects were the first to take off. They are kind of, again, that low-hanging fruit. And, again, all of these are beneficial.

The real sort of meat of the program, where the real long-term job creation comes, is with those operating businesses developing down the line. And so we don’t have a transparency and reporting bill that gives us a very clear look into the types of businesses that are created and the direct job creation within the zones. And so that kind of hinders us.

So you have a lot of folks in the media who are kind of speculating. They know that you can use the policy to turn a dollar into 10 dollars, and they know rich people have capital gains, so they just sort of speculate that it has only benefited rich people, but that is not the case.

Mr. Walden. All right. So tell me what you are seeing actually happen on the ground then in these real estate Opportunity Zone agreements. Give us an example or two.

Mr. Hawkins. Yes. Absolutely. So we have members that specialize in things like luxury hotels. But they had a heart for impact even before Opportunity Zones were passed into law.

One of our—our charter member, in fact, has a policy where they do one luxury hotel, one affordable housing facility, one luxury hotel, one affordable housing facility. So they have that balanced portfolio in order to get the best out of the policy while at the same time doing good.

And that same charter member has actually been partnering with organizations like Chicanos Por La Causa and the Urban League and others to sort of reproduce this model across the country in areas that have less sort of on-the-ground knowledge of the community.

So that makes sure that the development that occurs is developing in line and in a way that is going to have a positive impact on that local community.

Mr. Walden. All right. I see my time has expired. I want to thank again all of our witnesses for your energy, your presentations today.

And, Mr. Chairman, I yield back.

Mr. Tonko. The gentleman yields back.
The Chair now recognizes Representative Peters for 5 minutes, please.

Will you unmute, please?

Mr. Peters. Thank you, Mr. Chairman.

And thank you to the witnesses for coming out today and joining us.

I want to thank Mr. Ali for coming back. Last time we met was before this committee. We were discussing challenges facing communities on the front line of climate change, and we talked about environmental and health risks that disproportionately harm communities of color and low-income communities. We talked about coastal floods forcing planned relocations in Louisiana and Alaska and about exposure to air pollution increasing the risk of asthma attacks in communities of color. And today, of course, we are talking about the same disparities following the same frontline communities and this time in the context of an infectious disease pandemic.

Growing data show the extent to which COVID–19 is disproportionately affecting poor and minority communities. Poor air quality in these communities is strongly associated with a higher risk of death from COVID–19, and a recent Harvard study shows that the long-term exposure to air pollution, such as particulate matter and ozone and other hazardous air pollutants, leads to a large increase in COVID–19 cases and related deaths. So weakening clean air protections and rolling back regulatory protections, again, threatens to cost more lives.

The most vulnerable Americans are the hardest hit by climate change. To right these environmental injustices, we have to prepare our State, Tribal, local, and territorial public agencies to adapt to an already changed climate. And we also talk often about what will we spend on adapting to climate change that we know is going to happen.

But I think we also have need to recognize that anything we do to mitigate climate change—because climate change has the biggest negative effect on these disadvantaged communities—anything we do to mitigate climate change will have the greatest effect and the most benefit to those same communities.

I wanted to ask a couple of questions to Mr. Hawkins about some of the job losses, and particularly in the context of clean energy. According to the latest analysis of clean energy job losses, we lost almost 600,000 clean energy jobs in April, and in your testimony you describe the important role that clean energy plays in Opportunity Zones. What role do you see for clean energy investments in the economic recovery?

Mr. Hawkins. Yes. Well, I definitely appreciate that.

So, while the designated Opportunity Zones have disproportionately high numbers of poverty and things along those lines, they have actually seen some real leadership on the clean energy side of things. So when we look at particularly solar, the Opportunity Zones have 475, I believe—I was just double-checking my testimony—but I believe 475, and I can—

Mr. Peters. Yes, 475 solar installations producing more than 1 megawatt of activity, and 127 wind farms, and 15 battery plants.

Mr. Hawkins. Yes, absolutely.
And so we have seen that because the entire policy draws in innovation. And so we have seen a lot around clean energy. We have seen a lot around solar. We haven't seen as much on the wind side. But, again, we are looking at $100 billion that are coming to these communities over the next 10 years.

And what is important is that every business doesn't have to be necessarily organic to an Opportunity Zone. It can be a business that was placed anywhere, and they can build a subsidiary in an Opportunity Zone. So what it does is it lowers the cost of capital for those clean energy projects, and when you put that and overlay that with some of the other works that you guys did, have done around clean energy and around the various clean energy tax credits, those are mutually reinforcing to what you see in Opportunity Zones.

Mr. Peters. I am going run out of time. But I just want to say, I hope that our committee thinks about, as we recover from the pandemic, investing in things that both create jobs and reduce carbon emissions. And I think that there are opportunities around that too.

And finally I just want to say to Mr. Walden, who told you that it was raining in the West, at least in areas in San Diego represented by Democrats, it is a sunny day here.

I yield back.

Mr. Tonko. OK. We are getting the updated weather reports from the West Coast. The gentleman yields back.

The Chair now recognizes Representative Rodgers, please, for 5 minutes.

And I will remind our Representative to unmute. And 5 minutes is yours.

Mrs. Rodgers. Hi. Good morning, everyone. Continuing from the West Coast. It is partly cloudy, partly sunny here.

Anyway, it is good to be with all of you. I want to thank our panelists for your presentations and appreciate the focus on this important topic today.

Certainly our vulnerable communities have borne an unproportionate share of the current health and economic crisis, and I am glad that we have an opportunity to discuss some specific steps as to what we can do to improve people's lives and to continue our pursuit for a more perfect Union.

I appreciated what Congressman Shimkus, the ranking member, had to say about reflecting on past mistakes but also past successes as we seek to live up to our American ideals. And economic revitalization programs can have a significant impact on areas of the country that are experiencing economic stagnation, and especially in these former industrial areas. I have seen it in eastern Washington. I have seen it in Spokane. And these areas can have a particular negative impact on both a community's health and economic potential.

So cleaning up these areas has the positive impact of improving the environmental health of a community, along with the amazing potential of creating more jobs. And as others have mentioned, a job is so foundational to both addressing environmental issues in this case, but also improving people's health, providing housing, and creating that foundation for a better life.
In Spokane, we have had an incredible amount of success and economic growth in the last decade, and part of it is due to some former industrial sites that have had tremendous economic development. EPA’s Brownfields Program has been an essential tool that Spokane has used to realize the economic benefits of these former industrial zones.

So the last Congress this committee reauthorized the Brownfields Program. It was led by Mr. McKinley. And I am proud of the bipartisan support of this important program. The Opportunity Zones that have been discussed this morning, including the Tax Cuts and Jobs Act—another tool that is being used to encourage these distressed communities and encourage the investment that we need so that we can transform these areas into more prosperous and more healthy areas.

So, Mr. Hawkins, first I want to thank you for your work developing the Opportunity Zones program during your time with Senator Scott. As you know, the Members on this panel are proud of what EPA’s Brownfields Program and related technical assistance can do to prepare communities for economic development.

I just wanted you to describe again how many of the Opportunity Zones also overlap with brownfields sites and just talk to the significance of this overlap.

Mr. HAWKINS. Sure. Sure.

So, of the 151 communities that that have been designated for those remediation funds, for that $65 million-plus, 118 of those are also overlapping Opportunity Zones. And so folks will be able to leverage both.

And we look at that focus, that is actually part of an initiative. The White House Opportunity Revitalization Council was structured to bend every resource of the Federal Government from a community development perspective to, sort of, you can look at it as favor Opportunity Zones. So when you are looking at permitting, when you are looking at anything, you go to the top of the stack if you are in an Opportunity Zone.

And the point is to leverage the policy as much as possible. And we see it with brownfield remediation, we see it with other areas, the FCC and rural broadband. And it is just very exciting.

Mrs. RODGERS. How does that track with what your initial prediction was?

Mr. HAWKINS. Well, again, we are on track to get the funds in. The real focus for you all on Capitol Hill and the focus for State and local governments is not so much making sure the capital goes in. The leverage of the policy guarantees that. We just have to make sure that the capital benefits the existing resident of distressed communities, and so far it seems to be.

Mr. TONKO. The gentlelady yields back, I believe.

And the Chair now recognizes Representative Barragán for 5 minutes, please.

Please unmute.

Ms. BARRAGÁN. Thank you, Chair Tonko.

This is a very timely hearing, given the protests calling attention to the systematic racism in our country. Systematic racism is widespread and includes housing and environmental policies that have disproportionately impacted our Black and brown communities. An
important part of achieving racial justice is addressing environmental justice.

Black and brown communities in my district have suffered greatly from the current pandemic. Our air pollution levels are among the worst in the country, which has caused high rates of asthma and respiratory diseases.

Those ailments have been shown to make COVID–19 deadlier to those who have them because of how the infection attacks the lungs and the respiratory system. This makes communities in my district more vulnerable to the coronavirus. It is a preexisting health and environmental crisis made worse by the coronavirus. So we need action.

There has been a lot of talk about Opportunity Zones. I supported Opportunity Zones to help create jobs. But that is not going to help our Black and brown communities that have to live in these communities right next to air pollution.

So, Mr. Ali, one of the legacies of redlining, the government-sanctioned denial of home loans and insurance to communities of color, is that our housing is disproportionately located near polluting industries; for example, oil refineries in my district.

Can you talk about how the systematic racism from our housing policy is part of the reason our communities are disproportionately exposed to air pollution and solutions we can implement to overcome this?

Mr. Ali. Most definitely.

You know, historically we have with our housing stock moved people into certain locations, into Sacrifice Zones. And then many of the negative things that were brought in were attracted to these places because of the disinvestments that were actually going on in those spaces.

So, as you said, we can travel across the country and you can find where certain actions in relationship to bad housing practices have put people's lives in danger, whether we are talking about, as Ms. Patterson raised earlier, Cancer Alley there in Louisiana running between New Orleans and Baton Rouge.

If you look at folks in North Carolina, in Princeville, founded by freed slaves and moved into certain areas, and then the disinvestment. So there you have folks who have been hit by major hurricanes back to back and can't rebuild.

If you go down to South Carolina, to near the Little Pee Dee River that is there, you actually have seniors, seniors of color, and lower-wealth White communities also, who, because of the housing stock that they have been in and placed in, they are in greater danger.

Unfortunately, also now we have these processes in place where they can't even rebuild their homes. They have to lift them up a certain distance to meet code, but there are no resources to help these seniors to actually be able to do that.

We can literally travel around the country and see how redlining, restrictive covenants, and a number of things have actually pushed people of color—and sometimes lower-wealth communities, but primarily folks of color—into these areas and then all of the negatives that come with that.

Ms. Barragán. Well, thank you.
Ms. Patterson, thank you for all your work with the NAACP combating environmental racism in our country. Many years ago, as a college student, I was an intern at the Washington Bureau with Hilary Shelton fighting racial health disparities. So I appreciate all the work that your organization does on that issue, on civil rights issues across the country.

We have seen newly published studies linking exposure to particulate matter pollution to an increase in deaths from coronavirus. Ms. Patterson, what investments can we be making in our Black and brown communities to reduce these pollutants, and do you believe that includes addressing the pollution that comes from vehicles?

Ms. Patterson. Thank you so much. Absolutely. And I appreciate your service with the Washington Bureau.

So, yes, absolutely in terms of reducing pollution from vehicles, including one of the projects we are working on is our transit equity, clean air, helping communities initiative which really looks to do just that by working on passing ordinances to transition bus and truck fleets to electrification to remove that hazard from communities.

We also need much stronger, again, air pollution standards from the Clean Air Act and its rulemaking, and also we are working on advances clean air ordinances at the local level so that, whether it is refineries or coal-fired power plants or other types of production plants, are not there causing—you know, emitting those pollutants.

We also need to really be thinking not just about what we are stopping but what we are advancing. So, in addition to advancing bus and truck electrification, we need to be thinking about building electrification, greater energy efficiency and clean energy, and how do we invest in that transition as an alternative to the harmful ways that we are generating energy now, as well as shifting to zero waste, because we know the incinerators are also burning waste and putting PM_{2.5} and other pollutants into the air.

So thank you. Those are the types of investments I would recommend.

Ms. Barragán. Well, thank you for your response.

With respect to the investments in transportation, I just want to quickly mention I have introduced the Climate Smart Ports Act to invest billions of dollars into reducing emissions in and around ports, where we see a lot of communities of color live and suffer from air pollution.

With that, Mr. Chairman, thank you. And I yield back.

Mr. Tonko. The gentlewoman yields back.

And we now recognize Representative McKinley for 5 minutes.

Representative McKinley, just unmute, and you have your 5 minutes.

Mr. McKinley. Thank you, Mr. Chairman.

Look, last November this subcommittee held a similar hearing on challenges facing frontline communities as they transition away from fossil fuels. We highlighted towns like Welch, West Virginia; Gillette, Wyoming; Harlan, Kentucky; and Petersburg, Indiana, all of which depend on fossil fuels for their livelihood and existence.

Now, 8 months later, let's revisit Welch in McDowell County. Welch is unique. It has a minority population, the largest in West
Virginia, at 35 percent minority. It is now experiencing a poverty rate of 27 percent. Unemployment had grown to 15 percent. And this lack of jobs has led McDowell County to having the highest drug overdose rate among all the counties in America.

In a conversation with the mayor of Welch last week, he implied that the repercussions of COVID create short-term problems, but the anti-fossil-fuel agenda from the left is a long-term threat for communities like Welch and would completely destroy the economy of the city of Welch and the entire region.

So, Mr. Chairman, tying air pollution to COVID–19? Really? Seriously? It is a simplistic answer to a complicated question. Once again, you are taking advantage of a public health crisis to justify your party’s agenda against fossil fuels.

We shouldn’t jump to conclusions. Some have advocated that pre-existing conditions such as hypertension and diabetes are linked to COVID–19, but a recent study from Oxford University has concluded otherwise.

We have already been studying this issue for 5 months. I agree that this is a complicated situation, but we need more data. For example, Welch, in McDowell County, with all its problems, has only experienced six cases of COVID and no—zero—no deaths.

In the meantime, in the middle of villainizing fossil fuels, why aren’t we researching and developing technologies to capture carbon emissions and provide a lifeline to distressed communities like Welch, Gillette, Harlan, and Petersburg?

Now, those communities are all hearing the same stories that you and I are hearing, that Biden has already said fossil fuels will have no part in his administration. Therefore, are frontline communities like Welch expendable? Are the people of Welch among the 10 to 15 percent of Americans that Biden thinks are not very good people? Are they the deplorables?

Our frontline communities like Welch with a heavy minority population should not be collateral damage to your war on fossil fuels. We have a moral obligation to not write them off, but to help them.

Mr. Hawkins, if I could to you, a question. Some will call fossil fuels pollution, but in West Virginia we call them jobs. You helped author the legislation for Opportunity Zones to benefit frontline communities like Welch, but for whatever reason it is not included in an Opportunity Zone in West Virginia.

So my question to you is, primarily, how can we modify the Opportunity Zones—they are locked in for 10 years—how can we modify those Opportunity Zones so that towns like Welch can benefit and prosper and diversify their economy?

Mr. Hawkins. What we would love is for Congress to first pass a transparency and reporting bill, because the initial legislation had provisions that would allow us to record the types of businesses, the amount of jobs created, and the locations of those jobs. That reporting will give us the data that we need to say, “Look, Opportunity Zones are working, there are certain people we want to serve, and now it is time to expand them.”

Because we would love to give the Governor of West Virginia the ability to designate an additional 10 percent of zones, let’s say, so going from 25 percent designations to 35 percent. You know, in my
And so if we can allow—if we can get the data once, first of all, to see if the policy is working and then use that to enable legislation to expand the policy and allow additional zones to be designated, then we can pull those areas of West Virginia in that could benefit from the policy and that could benefit from the jobs that will be created.

Mr. McKinley. Thank you.

And, Mr. Chairman, I yield back.

Mr. Tonko. The gentleman yields back.

The Chair now recognizes Representative McEachin for 5 minutes, please.

And unmute, please.

Mr. McEachin. Thank you, Mr. Chairman.

As our Nation continues to navigate the crisis caused by, in some cases exacerbated by, COVID–19, I cannot think of a more important time to be working together to ensure that environmental justice communities are centered in our work.

I want to thank our witnesses for their time and their expertise. I have had occasion to work with both of them over the past few years, and I am deeply gratified by their leadership and their commitment to equity and justice.

The COVID–19 pandemic is harming communities of color disproportionately. The burden of pollution in these communities is a big part of the reason. The pandemic is another burden accumulating on top of pollution in our air, lead in our water, and carcinogens in our soil. Many of our environmental laws call for the protection of vulnerable or high-risk populations, but no one can look at the disproportionate burden of disease in our country, including COVID–19, and say that we are protecting those communities.

Now, this is a little bit off of what I intend to ask in the first instance, but given the previous member’s remarks, Ms. Patterson, do you care to comment on the assertions made by Mr. McKinley about Welch and their view of the leftist war on fossil fuels?

Ms. Patterson. Thank you. I appreciate that.

I would more frame that as the frontline communities’ quest for health and survival. And we have seen just how—we put out a report called “Fumes Across the Fence-Line” that talked about the extreme negative impacts of the oil and gas industry and refineries on our communities. We put out our “Coal Blooded” report where we talked about how the Department of Labor’s own statistics, talks about the 76,000 coal miners who have died of black lung disease since 1968 as they toil to create energy for our Nation.

So for us, we don’t frame it as anything but we are looking out for the health and well-being of our communities and our planet. And for us, we put together this group called the Black Labor Initiative on Just Transition, which includes groups like the United Mine Workers of America, the U.S. Steel Workers, and so forth, so that we could all come together and say, given the necessity of this transition away from fossil fuels that are harming communities and the planet, how can we do this in a way where your livelihoods are maintained and where you are not in the fossil fuel industry.
but in an industry that really maintains your pensions, your healthcare, and the income that you need to move forward. So that is the kind of conversation that we would like to be having so that we can—so we have all. We have energy. We have the income and livelihoods people need. And we have health and well-being for communities. And we have the survival of the planet.

Thank you.

Mr. McEachin. Thank you, Ms. Patterson.

Let me just follow up again with one more question. Are you essentially saying that clean air and clean water and a greening of our economy actually equals good-paying jobs?

Ms. Patterson. That is exactly what I am saying. We know from past statistics that the solar industry is in the top 10 growing industries in our country. Wind turbine technicians are the number one fastest-growing profession in our country.

And we also know we have seen where economic well-being can flourish in the new energy economy and we can actually have a concentration of wealth building and ownership at the community level so that all can thrive, as opposed to a wealthy few.

Mr. McEachin. Thank you.

Mr. Ali, I just have a minute left, and I apologize to you for that. But can you help us understand how we can assure that communities of color are actually at the table when we are dealing with standards being set and permits being issued?

Mr. Ali. Yes. I mean, there are a number of opportunities, whether it is in our public comment periods and making sure those are open and transparent and that they are handled in a way that is actually inviting of people's participation and the knowledge that they bring.

We can also make sure that both on the Federal level and on the State level that we are really, truly engaging in an authentic and transparent way with folks as we are framing out really what will either be a positive or negative in their lives. We have a number of opportunities to really engage with frontline communities to make real change happen.

Mr. McEachin. Thank you. I appreciate it, my friend.

Mr. Chairman, I yield back.

Mr. Tonko. Thank you.

The gentleman yields back.

The Chair now recognizes Representative Johnson for 5 minutes of questioning.

Please unmute.

Mr. Johnson. Well, thank you, Mr. Chairman.

And before I get into my questions, let me give another warm welcome to my fellow Buckeye, Shay Hawkins from Cleveland.

Shay, we appreciate you being here today and offering your very important perspective on these issues.

Mr. Hawkins. Thank you.

Mr. Johnson. You are most welcome.

You know, bringing new investment to economically distressed communities is key to improving the quality of life for local residents and weathering disruptions like we have seen with the shutting of much of our economy as a result of the COVID–19 pandemic.
In my district in eastern and southeastern Ohio, we have been blessed with an oil and gas boom which has provided a variety of good-paying jobs for thousands of blue-collar workers. The American energy renaissance has benefited millions of families across the country and across all socioeconomic levels. In fact, according to the American Petroleum Institute, by the year 2030, over 32 percent of the oil and gas workforce across the country, over 400,000 workers, will be from members of minority communities.

But today I want to focus on another promising development, helping underserved communities, and Mr. Hawkins is an expert on this. You have already heard him speak on it a little bit. And I am talking about returning to Opportunity Zones, which I was pleased to support as part of the Tax Cuts and Jobs Act.

While utilizing Opportunity Zones can be an effective way to address financial and social challenges in urban areas like Cleveland, they can also improve economic conditions in historically distressed rural areas, like Appalachia, where I live.

Mr. Hawkins, I understand there was over $10 billion raised into Opportunity funds as of March 2020. What role do you see Opportunity Zones playing in the economic recovery from the COVID–19 lockdown?

Mr. Hawkins. I think they are going to play a critical role, an absolutely critical role. And the reason is because these communities, whether they be urban Opportunity Zones or whether they be rural Opportunity Zones, these areas are always the first to get hit when we go into a recession, and they are hit the hardest, and they are always the last to recover.

And so the difference between past recessions and the economic disruption that we are seeing from COVID–19 is that, in previous recessions, we did not have Opportunity Zones. Opportunity zones aren’t a panacea, but they are a very sharp tool in the community development toolbox.

Mr. Johnson. Well, I am glad you said that. Let me change the direction for just a second, because we have got 18 Opportunity Zones in my district alone in Ohio. So how large do you expect the investment potential to be in these Opportunity Zones? Because we need them where I live.

Mr. Hawkins. Yes, absolutely. Like I said, we have got $10.8 billion, I believe, raised as of April 30, and Secretary Mnuchin estimates that $100 billion will come into these zones over the next 10 years.

And so we are excited. The rural zones provide great opportunities for things like rural broadband, things like clean technology, and that is what we have been seeing. And we have been seeing it in areas that are as rural as northern Alaska. So we are very excited to see what develops.

Mr. Johnson. OK. As we have seen the implementation of the Opportunity Zones, are there any outstanding regulations that are needed in connection with Opportunity Zones to make them work more effectively?

Mr. Hawkins. Yes. Absolutely. The initial Investing in Opportunity Act included reporting and transparency provisions. So, because of parliamentary reasons, we had to strip those out. We passed it in the Tax Cuts and Jobs Act.
But there is a bill right now on the Senate side that Senator Scott and Senator Sinema, along with Chairman Grassley, introduced to add those reporting and transparency requirements back. And so we would love to introduce a version of that on the House side and to have you guys get it passed.

Mr. JOHNSON. All right. Well, thank you.

I had some other questions, but I will submit those for the record.

Mr. Chairman, I yield back.

Thanks, Mr. Hawkins.

Mr. Tonko. The gentleman yields back.

The Chair now recognizes Representative Blunt Rochester for 5 minutes for questions.

And, Representative, unmute, please.

Ms. BLUNT ROCHESTER. Thank you, Mr. Chairman.

And to our witnesses, thank you so much for your time.

As we are having this hearing, George Floyd is being laid to rest in his final ceremony. And I think it is only fitting that, as we talk about COVID–19, a disease that is a respiratory one, and to link it to all of the different issues that we have talked about here, just even the ability to be able to breathe is something that is heavy on my heart.

And I have prepared remarks. I am a little bit off script here as well because I am the kind of person, as many of you know, I like to celebrate our successes. But I feel that, at this moment, part of what each of us individually and collectively have to do is hold up a mirror to ourselves and say, “What can we do differently?”

And I appreciate this hearing because I think it is shining a light, just like COVID–19 has magnified the inequities that we already knew existed in our society.

And so, as we move forward—I appreciated Mr. Walden’s comments as well—I hope that we will hold up an individual mirror, as well as a collective mirror, and maybe put aside some of even the phrases and terms that we use to politicize things, because what we are experiencing right now is something different.

And like I said, I had remarks here that really just talk about the fact that racism and injustice are built into the foundation, as Mr. Ali said. And it is not just about the foundation crumbling and the house being destroyed. It is about the fact that sometimes you can have a shaky foundation and the house stays the same, but you continue to do repairs and upkeep and it becomes a money pit.

And, until we start dealing with root issues, until we start really having courageous conversations with each other, we will continue to have a money pit where we are just dumping money into programs. It is not that these individual programs aren’t great, but it has to be systemic, and we have to see outcomes. We have to see real outcomes.

So those communities that we call vulnerable, those communities that we call distressed, I call them superhuman that people are even still existing when they are placed next to toxic sites and when they don’t have food and healthcare and transportation.

And so I am proud to be a member of this committee because we have the ability to do incredible things, and I am looking forward to that.
I have got questions here, and I am going to try to go very quickly, but I want to hold a mirror to myself and all of us to commit, separate and apart from these hearings, that we are going to work together to change outcomes that we are seeing.

To George Floyd and his family, my prayers.

Studies show that there is a disproportionate and cumulative impact that pollution has had on communities of color and, as Mr. Ali calls, low-wealth and rural communities as well, and we have seen the staggering mortality rates from COVID–19 on those communities.

And in the 1 minute I have left, Mr. Ali, if you could talk a little bit about how more data and better data would be helpful. We know that there are monitoring systems that have either not been updated or are not working. We have written to Administrator Wheeler, and I thank those who signed on to that letter. But, if you could talk a little bit about the use of data that would help fence-line communities particularly.

Mr. ALI. Yes. Thank you, Representative.

I mean, that is one of the critical elements that we need. When I first started working on these issues, I remember walking down the hallways of the EPA, and there were two folks who were in front of me, and they said, “I don’t know why we are going to this meeting on environmental equities, because what these people are sharing can’t possibly be true.”

So, if you are just dealing with the narratives, the stories that are incredibly important from frontline communities, without being able to lock that down with the data, then people can make those types of statements. That was over 25 years ago.

Today we have to make sure that the monitors are in the right locations, that the information that is coming out of that is accessible both to regulators, to policymakers, but also to frontline communities.

We also have to—as we shared earlier—we need to make sure that we are also getting the data that needs to exist in relationship to COVID–19, that is closely aligned with these hot spots that we find across the country.

When we don’t do that, then it is easy for folks to say, “Well, that sounds like a story that you are telling,” instead of something that is rooted in facts. As the Agency has kind of moved away from capturing the relevant data, we have to move back in that direction so that we can anchor everything in facts.

Ms. BLUNT ROCHESTER. Thank you.

And, Ms. Patterson, I have a question for you that we will ask afterwards.

And we would like to submit that letter to Administrator Wheeler for the record.

And, again, to my colleagues: Together, let’s do this together.

I yield back.

Mr. TONKO. Good message, Congresswoman.

And the gentlelady yields back.

The Chair now recognizes Representative Flores for 5 minutes for questions, please.

And please unmute.

Mr. FLORES. Thank you, Mr. Chairman.
And I appreciate the witnesses for joining us today.

I would encourage us to reassess having these online hearings. I think that Congress is an essential service and that the American people would be better served by us doing this in person.

Mr. Hawkins, I have a couple of questions for you. I would like to expand the Opportunity Zone discussion and talk a little bit about rural communities. We have all heard today that stronger economic employment opportunities can lead to numerous other benefits, such as environmental protections, healthcare, education, emergency services, greater tax base, and on and on.

Opportunity Zones were created by the 2017 Tax Cuts and Jobs Act, and the predecessor of that was the work that you and Senator Scott had done. They were done to stimulate economic development and job creation by incentivizing long-term investments in low-income, often overlooked neighborhoods and communities.

These zones also overlap often with what we call—with what some call environmental justice communities. Today there are more than 8,760 of these designated Qualified Opportunity Zones that are located in the 50 States, the District of Columbia, and the five United States territories.

So question one is this: Can you tell me roughly how many or what percentage of these Opportunity Zones are in rural areas? And can you also provide a few examples of successful active projects that are underway today?

Mr. HAWKINS. Sure. So about 23 percent of the zones that were designated would fall into the category of rural areas. And then the remainder are in urban areas or what we call suburban areas, suburban areas being about 10 percent and then the remainder being in urban areas. And so there is a significant potential impact there.

When we look at concrete examples of some of the things that we have seen in urban areas—I mean, in rural areas—we can look to rural broadband. And I can look to one of my members who has been operating to expand rural broadband in rural Alaska.

And so, as you can imagine, because of the terrain in Alaska, it is very difficult to get fiber penetrated into the interior of the State. But Opportunity Zones have lowered the cost of capital to the point where it has made it feasible.

So one of our members, along with their existing investors, along with an Opportunity Fund that focuses on broadband, and along with additional support from one of the Tribal corporations, has been expanding rural broadband in Alaska and laying that fiber. And so, if you can lay the fiber up there and expand rural broadband in Alaska, then you can expand it anywhere.

Mr. FLORES. OK. Well, thank you.

I am glad you brought up rural broadband. Are there any other specific obstacles to broadband internet access that aren’t being addressed today by statute or by the Opportunity Zone legislation that we passed earlier?

Mr. HAWKINS. Well, one of the things we have seen, again with that White House Revitalization and Opportunity Council, some of those resources that have been bent to favor Opportunity Zones have included a $26 billion fund to support rural broadband at the FCC. And so we have seen that.
And then we have also seen some sort of interesting legislation out there to possibly create a gigabit Opportunity Zone that is focused on building out rural broadband infrastructure along the same concept of traditional Opportunity Zones.

Mr. FLORES. OK. And then, lastly, back to rural Opportunity Zones writ large, are there any other particular obstacles to robust investment in those rural zones? And, if so, what are they?

Mr. HAWKINS. So we haven't identified any particular obstacles. One thing from a regulatory standpoint, the regulations from Treasury that would govern operating businesses took longer to come out than those that would cover real estate. So operating businesses are what you are going to see developing in the rural areas. So we had those final regulations completed as of December 2019.

Mr. FLORES. OK.

Mr. HAWKINS. Now that those regulations are out, that was the primary obstacle that we saw to operating business development in rural areas. So we are just looking forward to seeing the money flow.

Mr. FLORES. OK. Thank you, Mr. Hawkins.
I yield back.

Mr. TONKO. The gentleman yields back.
The Chair now recognizes Representative Soto for 5 minutes of questioning.
And, Representative Soto, please unmute.

Mr. SOTO. I thank you, Mr. Chairman.

Climate change, polluted air and water, social injustice, and COVID–19, they are all interrelated.

As COVID–19 swept across our Nation, President Trump hid the truth from the American people. He politicized the issue, and, worst of all, he did nothing for weeks, from January through February and early March, as the coronavirus swept across our Nation.

President Trump's failed COVID–19 response has greatly contributed to the death of over 113,000 Americans, over 2 million Americans contracting the virus as well. President Trump's failed COVID–19 response also left 40 million Americans seeking unemployment and the worst economic recession since the Great Depression.

Now add his dismal failure to protect clean air and water, and he has created the perfect disaster for the American people. This especially affects frontline communities of color and low-income communities.

And, as my home State of Florida faces another dangerous hurricane season, rising seas, even a Miami seawall of 13 feet high, we know that we have to do something.

In central Florida, in my home area of Florida's Ninth Congressional District, we see in the Hispanic community, in our community, higher cases because we have many essential workers in Osceola County, which is why we need to pass the HEROES Act to help provide hazard pay for these essential workers.

The African-American communities in Polk County in our district, we saw higher levels of deaths in addition to a higher level of cases among Hispanics. And also we saw similar trends in poor rural Anglo communities in the district.
My question to Ms. Patterson and Mr. Ali, some folks want us to study more, to delay more before enacting environmental justice reforms. Do we have enough data on the effect of air pollution on COVID–19 to move forward with certain environmental justice reforms already? If so, what would they be? To both Mr. Ali and Ms. Patterson.

Ms. PATTERSON. I will let Mr. Ali go first. Thank you.

Mr. ALI. We have more than enough data. So let me give just a quick historical point for folks who may not know.

In 1992, John Lewis, an esteemed Member with your family there, actually introduced the first piece of environmental justice legislation, reintroduced it in 1993, and I believe tried also in 1994. And at that time he was trying to put a spotlight on the hot spots that exist around the country so that we could then make the investments that were necessary and also make sure that not only the investments, that we also had the legislation that would help to make sure that that didn’t happen in the future.

So now we are 28 years later and during that time there have been a number of institutions that have done all kinds of critical research, both public health organizations, environmental organizations, and a number of others, that have pinpointed the fact of the impacts that are happening from this pollution and the disproportionate impact on communities of color, lower-wealth communities, and on indigenous lands.

So it is not a matter of being able to have to prove any of this anymore. The question is, Are we willing to prioritize these communities to address both the past impacts and also, as many of you have been sharing, think critically about how do we help these communities also be able to rebuild?

I appreciate the conversation that is going on about the Opportunity Zones. I have my own set of questions that I am always curious about, about are they uplifting people, are they causing gentrification, a number of other things. And if those can be answered, then that is fantastic. But we should also be focused on the fact that frontline communities have been doing their own revitalizing of vulnerable communities.

I hope this committee, when the time is right, that we actually go out and visit firsthand these communities to see how they have actually been able to transform their communities to be able to create jobs, to be able to create healthy housing, to be able to create new transportation.

Mr. SOTO. Mr. Ali, my time is limited. So I want to turn to Ms. Patterson.

Do you believe boosting fossil fuel production in communities of color and low-income communities is in the long-term best interest of those communities?

Ms. PATTERSON. Did you say boosting?

Mr. SOTO. Boosting fossil fuel and chemical production, is that in the best interest of low-income communities and communities of color communities?

Ms. PATTERSON. Yes. Thank you. Sorry. Just didn't catch that one word.

No, I do not. Studies, experiences have all shown how, in communities that are exposed to fossil fuel, pollution from coal to oil and
gas and so forth, have shown the myriad public health challenges that those communities face. So it definitely isn't in their long-term interest.

As well as when we turn on the other side and see the connection between fossil fuel emissions and climate change, that we know that the climate change disproportionately impacts those communities, from the sea level rise you talked about and the displacement that they face to the disaster impacts that we saw in Hurricane Katrina and beyond, to the shifts in agricultural yields when these communities are already food insecure and suffer the many health challenges as a result.

So in every way the—and not to mention the actual harms to the workers in those industries with 76,000 coal miners and counting dying of black lung disease since 1968. And we know the many accidents and fatalities that have happened that are tied to the fossil fuel industry.

So, no, in no way is it in the best interest of communities of color and frontline community. Thank you for asking.

Mr. SOTO. Thank you.

I yield back.

Mr. TONKO. The gentleman yields back.

The Chair now recognizes Representative Mullin for 5 minutes for questions.

And, Representative, unmute, please.

Mr. MULLIN. Thank you, Chairman. Thank you for this opportunity.

You know, I have got to address something real quick. And I want to talk to Mr. Hawkins about Opportunity Zones.

But the idea of these meetings is to make sure we try to leave politics out of it as much as possible. I mean, if we are really going to have a hearing that is going to be able to move the ball forward and try to advance opportunities for all of our constituents, then we drag in politics like our colleague from Florida just did, it is absolutely absurd. For blaming the President for everything?

If I am not mistaken, it was not too long ago that I believe our colleague from Florida was trying to limit innovation in pharmaceuticals. That was before COVID, obviously. And now we are going to walk down this path, and you are going to blame him for everything?

Guys, as a committee we are better than this. Our committee has had a long history of trying to do bipartisanship, and there is no way we can have bipartisanship if we continue to blame everybody for it.

It doesn't make any difference. We are in a pandemic. Let's figure out a way to move the ball forward. I don't think any of us are intentionally trying to hurt anybody. But we all have unique challenges in our district, and my district is no different.

I mean, one thing that has been exposed in my district is broadband. I have a very rural district. In fact, just recently the only reason why I am able to even be on this hearing is because I got internet at my house. Until just recently, that didn't exist. When I say I live in the middle of nowhere, I truly do. And when we start talking about Opportunity Zones, we need to pay attention to that.
Mr. Hawkins, that is what I was wanting to talk to you about a little bit. I know you have had experience working inside Indian Country, to some degree, but all my district is Indian Country. I am in Oklahoma.

Mr. HAWKINS. Yes.

Mr. MULLIN. So, when we start looking at Opportunity Zones in particular, how can broadband be part of that conversation?

Mr. HAWKINS. Yes, absolutely. And this goes to the flexibility that is built into the policy itself.

So the way the policy works is, every dollar doesn’t necessarily have to be derived from within the Opportunity Zone in order for the company in the Opportunity Zone to derive the tax benefit.

So this is just to say that, as long as the nucleus of the operation—you know, the employees, the leaders of the company, the management team, et cetera—as long as they are located in the zone and the jobs are created in the zone, the actual infrastructure can spread out outside the zone, because it is natural—it is expected that the revenues are going to come from outside of the distressed area.

Mr. MULLIN. And Opportunity——

Mr. HAWKINS. And it is particularly set up to lay fiber over a broad geography and still be able to benefit from that lower cost of capital.

Mr. MULLIN. And Opportunity Zones, we talked about jobs too, because with technology also comes job opportunities.

Mr. HAWKINS. Yes.

Mr. MULLIN. In rural parts of the areas, which is why Opportunity Zones existed, it was helped to spur along those jobs. Being in rural America, you know, for a lot of young people, the only opportunity for them to have a really good-paying job is to move, and we don’t want that to happen.

Mr. HAWKINS. Right.

Mr. MULLIN. I want my kids to live out on the ranch. I want my kids to live around us. I have got six of them, so one of these days, I am going to have a handful of grandkids, too.

Mr. HAWKINS. It is. We all want that.

Mr. MULLIN. Yes, absolutely. And we want to keep that family unit close, but Opportunity Zones can—and I am assuming, in your opinion—can help create those jobs that are good, sustainable, long-paying jobs, right?

Mr. HAWKINS. Absolutely. They not only create jobs for the companies that come, but, again, as you look at things like rural broadband being built out, that provides the technological connection with the rest of the world that allow people to remain to stay put and still do what they need to do. It also helps in terms of things like telehealth, so telehealth is something that is compromised if you don’t have a robust broadband infrastructure, and Opportunity Zones can be a key part of building that infrastructure out.

Mr. MULLIN. Thank you.

And with that, I will yield back.

Mr. TONKO. The gentleman yields back.

The Chair now recognizes Representative DeGette for 5 minutes, and——
Ms. DeGETTE. Thank you.
Mr. TONKO. And you did unmute. OK, great.
Ms. DeGETTE. Thank you so much, Mr. Chairman.

Some of you on this subcommittee have heard me talk about the Suncor Refinery, which is adjacent to the Denver communities of Globeville and Elyria-Swansea, which have a longstanding pattern of air quality violations, and, frankly, putting the surrounding community at health risk. And just for an example: In a 6-month period last year, the company violated key emission limits nearly 3,000 times, sometimes for more than a week in a row. Now, significantly, Swansea-Elyria and Globeville have a predominantly Latino population, where even before the COVID crisis, some of my colleagues, Representative Barragan, were talking about issues like this. A third of the residents lived below poverty level, and they also have food insecurity.

So I don't think anybody will be surprised, given the testimony we heard today, that these communities have also been one of the areas hardest hit by the coronavirus.

Ms. Patterson, I want to ask you: Could you elaborate about how social and environmental injustices are compounded by COVID–19 in environmental justice communities like Swansea-Elyria?

Ms. PATTERSON. Certainly. Thank you so much for the question.

Yes, so, unfortunately, when we have a situation where communities are already facing food insecurity, and, therefore—that contributes to these poor health conditions that they are already facing, the level of function that we talked about that leads to poor health conditions, as well as ties to other challenges around, whether it is being out of school, long poor air quality days, or kids being in school and having a hard time paying attention because of the pollutants that they are exposed to, and then you add a pandemic on top of it all.

So it is just the cumulative and compounded social, educational, and health factors, not to mention even the economic—certainly we see how the COVID–19 has affected the economy in general, but even before that, when people were—when kids are out of school and people have to stay home with their kids, then their financial well-being suffers, and then——

Ms. DeGETTE. That is fine. I hate to stop you, but I have a couple more questions, and it does, it just compounds it, which is why we see the infection rates and the death rates higher in communities of color and in at-risk communities. And also, Ms. Blunt Rochester talked about the air quality monitoring stations being down, and in some places the Trump administration is not even enforcing the laws. So, many of us have been trying to raise maximum fines for air quality violations, like with Suncor, and we have also been trying to require robust community-level air toxins.

Now, Mr. Ali, something that I think you could tell us about is how important enforcement of these environmental laws would be towards protecting health in these communities.

Mr. Ali. Yes. You know, enforcement is really interesting, you know, especially the time we are in. You know, we pump huge amounts of money into enforcement and policing of Black and brown communities, but when it comes to enforcing those same industries that are there, for some reason, we want to push back
against that, and I have never been real clear why we do that, but—well, I do have some ideas.

Ms. DeGETTE. Yes.

Mr. ALI. So——

Ms. DeGETTE. Oh, go ahead.

Mr. ALI. No, I was going to say, we know there has been less enforcement actions happening over the last few years. We also know there are less inspectors going out, and that creates a very dangerous scenario, especially for our most vulnerable communities.

So I believe in human nature and the goodness that exists there, and I hope that most businesses and industries will do the right thing. But we know through history that there have been some who have not, who have been significant noncompliers, and we have to make sure that there is a cop on the job, if you want to label it that way, to make sure people are doing the right thing.

Ms. DeGETTE. Thank you.

And you know, Mr. Hawkins, I want to say to you, I really appreciate your work over many years on issues like opportunities under brownfield. Way back in the mist of times, I actually worked on a brownfields spill in Colorado, which led to thousands of sites being cleaned up. But here is the thing—and I think you will agree with this—without robust enforcement of the environmental laws, you are not going to clean up the air in these communities just with Opportunity Zones and brownfields. It can help, but you have to have enforcement of the laws. Wouldn’t you agree with that?

Mr. HAWKINS. That sounds reasonable.

Ms. DeGETTE. OK. Thank you.

Thank you so much, Mr. Chairman. Great hearing.

And I yield back.

Mr. TONKO. OK. The gentlelady yields back. You are most welcome.

We now recognize Representative Carter for 5 minutes for questioning, and please unmute, Representative.

Mr. CARTER. OK. Thank you, Mr. Chairman, and I thank all of our speakers for being here. We appreciate your participation.

I want to start off by saying something about the EPA, because I think it has been somewhat misrepresented about their actions during the COVID–19 pandemic. The EPA has continued to enforce our Nation’s environmental laws and work with the Federal, State, and the Tribal communities. So, you know, their temporary policy has responded to inquiries from the States, and many of them with stay-at-home orders trying to regulate the community in those States, trying to protect its employees from the viruses. The policy lets the agency prioritize its resources to respond to acute risk and immense threats.

So, again, under the temporary policy, no one is excused from exceeding pollution limitations, and the only major change is that the EPA is not seeking penalties for noncompliance related to routine monitoring and reporting requirements. You know, over 40 States have adopted COVID–19-related enforcement discretion, including agencies in New York and New Jersey. That is all—I say all of that to say that the EPA and the environmental regulations continue to be enforced, and the EPA’s work continues. So I just want to set the record straight on that before we go any further.
Mr. Hawkins, I really do appreciate you being here, and I appreciate the work that you have done, particularly on these Opportunity Zones. You know, one of the things we have discovered during this pandemic is that we are too dependent on foreign countries, particularly China, for some of our pharmaceutical needs, our pharmaceutical manufacturing. And this is similar to what we experienced back in the late 1970s, when we realized that we were too dependent on the Middle East for our energy needs and we realized we needed to have energy independence, and we achieved that. We realize now that we need to have pharmaceutical independence. Too much of the active pharmaceutical ingredients are coming from other countries, particularly China.

One of the bills that I have introduced is legislation that will incentivize these companies to come back to America, and I am actually working with Senator Scott in utilizing these Opportunity Zones as a tax incentive for these companies to come back and invest in our communities like this.

Is this what you were—is this what the intent of the Opportunity Zones were, to create jobs like this?

Mr. Hawkins. Yes, absolutely. And there is so much that is being done abroad that can be done, you know, in these distressed communities. Just a couple quick examples. One, Puerto Rico is obviously—you know, we had bipartisan legislation just after the Tax Cuts and Jobs Act in the first spending bill after—in February, bipartisan legislation that allowed Puerto Rico to designate 100 percent of their distressed census tracts as Opportunity Zones.

As you know, Puerto Rico is a major hub for pharmaceutical development, and so, we have one of our members there that is specifically starting us a pharmaceutical subsidiary in order to bring back drug manufacturing that is currently done in China to Puerto Rico. So that is one area.

We have another area—an another member, I am sorry—in South Carolina that is actually bringing machines from Taiwan to America that can build face masks. You know, you literally put an input in the front of the machine, it spits out on the other end a packaged face mask that can wholesale for $2, retail for $5, and that is something that can be utilized because, right now, 85 percent of our face masks are made outside the country.

And, finally, we have got a member who creates small buildings out of shipping containers. They are in Opportunity Zones, and they build these buildings. They design them. They can do seven-story buildings or individual buildings. Right now they are building small scale aligned with—small scale buildings where folks can do testing, and they are importing testing kits from South Korea. They are making them for $14 a kit, where normally it is $40 a kit, and the kits are much more accurate than what we use right now. So this policy can bring a lot more manufacturing, distribution, and jobs back to the U.S.

Mr. Carter. Well, and thank you for that, Mr. Hawkins. And, you know, the economic impact is obvious and very important, but it also has an environmental impact as well, and you touched on that a number of times during this meeting, and I appreciate that.
I am sorry I have run out of time, but I want to point out that not only does it have an economic impact, it can have an environmental impact as well.

Mr. HAWKINS. Absolutely, absolutely.

Mr. CARTER. Thank you, Mr. Chairman. And I yield back.

Mr. TONKO. You are most welcome. The gentleman yields back.

The Chair now recognizes the representative from California, Representative Matsui, for 5 minutes.

And, Representative, unmute, please.

Ms. MATSUI. Thank you very much, Mr. Chairman, and a huge thank you for all of the witnesses that are with us today, taking the time to share with us some of the stories that are happening on the ground in communities that are often overlooked, despite the disproportionate burden they have to share.

The pain experienced by Black and brown low-income communities has come to the forefront of the national attention in the recent weeks. We know these communities have faced injustices for years with little cohesive action taken to right these wrongs. The hearing represents an important step in hearing stories, looking at the facts, and assessing what the most effective Federal solutions will be in ensuring a more just society for all.

So let's, first of all, get some facts straight. About a month ago, the Harvard School of Public Health released a study highlighting how frontline communities and those living in the areas of the country where the worst air pollution are facing disproportionate risk of health complications and death from COVID–19.

Mr. Ali, is it true that, if you are non-White, you are more likely to live in an area with higher air pollution?

Mr. ALI. Yes.

Ms. MATSUI. OK. Is it true that some studies have demonstrated that there is a link between living in areas with higher air pollution specifically, and fine particulate matter and a mortality rate of COVID–19?

Mr. ALI. Yes.

Ms. MATSUI. Now, is it also true that a recent study determined that air pollution particles had active vectors for the coronavirus in the air?

Mr. ALI. Yes.

Ms. MATSUI. Now, in spite of the significant findings of many of these studies, EPA is charging forward with a number of harmful deregulatory actions, including the Clean Air, Clean Cars rollback, and Administrator Wheeler's refusal to update the standard for regulating particulate matter pollution.

Mr. Ali, how many lives are lost each year as a result of air pollution?

Mr. ALI. A minimum of 100,000.

Ms. MATSUI. Do you know what percentage of these deaths occur in communities of color or low-income communities?

Mr. ALI. I know they are disproportionately impacting. We need additional resources to know the exact number.

Ms. MATSUI. Do you think the standards ought to be set higher?

Mr. ALI. Most definitely, and communities have asked us to do that.
Ms. MATSUI. OK. Can you speak to the number of lives saved if we were to strengthen rather than maintain particulate matter standards?

Mr. ALI. Tens of thousands of lives would be saved.

Ms. MATSUI. OK. Mr. Ali, you worked at the Environmental Protection Agency for 24 years, specifically focusing on environmental justice. How can we strengthen EPA's Office of Environmental Justice to have the tools, authority, and funding it needs to better accomplish its mission?

Mr. ALI. We can elevate it to a national program office, just as we have the Office of Air and the Office of Water. Many of you talked about brownfields and Superfunds. We can make sure that office is at that level. We can make sure that it has the staffing and expertise that is necessary. We can also make sure that we are honoring the interagency working group that runs through that office so that we can leverage the resources and expertise that exists in all of the other Federal agencies also, so that we can achieve the goals that many folks on the call today have said that they would like to see.

Ms. MATSUI. OK. Thank you.

Ms. Patterson, you wrote in your article "Climate Change and Civil Rights Issues" that the Black community tends to have a greater dependence on public transportation, that Black individuals are more likely to live in inner cities, and are disproportionately affected in rises in home energy costs.

I would imagine all of these factors play a role in how COVID–19 is impacting the Black community. Is that true? And if yes, how so?

Ms. PATTERSON. Yes, that is absolutely true. Just in the early days of COVID–19, as they were restricting bus routes, I was driving on an essential trip to the grocery store and noticed a bus going by that was chock-full of people in Washington, DC, all African-American, none with masks on. And I wondered, you know, about these essential workers, whose work was being deemed essential that put them on that bus, but whose lives weren't deemed essential in terms of actually putting in the precautions that would protect them from the transmission of COVID–19 in that context, absolutely.

Ms. MATSUI. I am hearing more and more stories about polluting facilities moving into or near communities of color or low-income neighborhoods with little fear of opposition or retaliation for the negative impact they have on the people who live there. What would you say are some of the top factors preventing communities from being able to stop polluting facilities from moving into the neighborhoods?

Ms. PATTERSON. Thank you.

Definitely the inequities, in terms of access democracy, in terms that we see a lot of in the way of decisions being swayed by the financial ways that folks are contributing, either to campaigns or otherwise. And so we see what decision making happens in ways that are unfortunate. We also see where there aren’t enough public engagement processes where people are actually part of decision making. So things happen to our communities disproportionately versus us actually having control.
One example—I saw it on the BP oil drilling disaster—was when the waste from the—the toxic waste that included chemicals that were banned in 90 countries, Corexit, the one community that would be able to fight back from having that toxic waste come to their community was the one community that was predominantly a White American community, and all of the other communities that were hosts to that toxic waste were ones that were—had a higher than the population of communities of color.

Ms. MATSUI. Thank you very much for your testimony.

I yield back.

Ms. PATTERSON. Thank you.

Mr. TONKO. The gentlelady yields back.

The Chair now recognizes Representative Duncan for 5 minutes for questions. And unmute, please.

Mr. DUNCAN. Thank you, Mr. Chairman.

As I think about the last thing that we had on the frontline communities and the one that we are having today, I believe we need to be focused on creating the type of atmosphere that welcomes more income opportunities and brings investment into the communities that need it the most.

When President Trump took office, the national unemployment rate at the time was 4.7 percent. That employment rate among African Americans was 8.1 percent, and it was 5.8 percent among Hispanic Americans. In February of this year, prior to the COVID–19 pandemic shutdowns, the national unemployment was 3.5 percent. African-American unemployment had dropped to 5.8 percent. Hispanic American unemployment was down to 4.4 percent.

We got there by opening opportunities to all Americans, focusing on innovation and maximizing synergies in both Federal, State, and local governments, as well as the private sector, in order to make progress in areas that previously had not been the focus of prosperity.

Unfortunately, today the national unemployment rate is 13.3 percent. African-American and Hispanic unemployment has ballooned to 16.8 and 17.7 percent, respectively. We need to be focused on solutions and return to previously growing employment opportunity to people.

History shows that rising incomes increase standards of living, offer communities choices and possibilities, and attract new opportunities. Part of this administration’s policy that I agree with has been to modernize and clarify regulations and facilitate a more efficient, effective, and timely review process. This includes revising Federal regulations to reflect current technologies and agency practices, eliminate obsolete provisions, and improve the format and clarity of regulations.

Many of the environmental permitting laws have strayed from their intended objective and instead appear to have been weaponized for political motives. Unending litigation now defines and delays the permitting process for many infrastructure and energy projects. The pandemics [inaudible] the necessity of a reliable grid, and the ability to timely permit infrastructure is critical to maintaining that. The inability to move projects forward imposes national security risks on the U.S. Our country has become entirely
dependent on other countries for supplies of rare minerals, which is central to the clean energy development.

So I want to address my comments to Shay Hawkins. Shay, my staff and I enjoyed working with you when you were at Senator Scott’s office. I appreciate what you are doing with the Opportunity Zones, and my question is this: Low-income communities will be the last to recover from this economic instability. As the U.S. begins to reopen this year, we need to capitalize on Opportunity Zones as a tool to help the most economically distressed communities. In order to bring benefits to disadvantaged communities, how important is modernization of and certainty in Federal permitting requirements?

Mr. HAWKINS. It is absolutely critical. You know, when you look at the issue with permitting, both at the Federal level but then also in the State and local level, you know, the key is not necessarily a matter of moving so quickly that somehow, something from a safety standpoint is put aside. Sometimes it is just a matter of having a quick yes or no, so that the decision makers can make adjustments to get, you know, the project done, to get the business built back out, you know, accordingly. So permitting and streamlining that process to a quick “yes,” “no,” or “this is what is needed to move forward” is critical.

Mr. DUNCAN. I mean, the folks that are doing infrastructure and economic development projects, they need timely decisions in order to create jobs. And the bureaucratic delays that we have seen—and everyone on this committee, regardless of what side of the aisle you are on, understands there are bureaucratic delays that have affected projects in your district. Whether that is economic development projects or whether that is water, rural infrastructure projects, it doesn’t matter. Bureaucratic delays are hampering the process.

So a yes or no answer in a timely manner is so important. And, Shay, I appreciate you bringing that point.

Let me just go back to what Markwayne Mullin was saying about broadband. I think it is important that this committee and Congress address rural broadband. In my district during the pandemic, schoolchildren didn’t have access to the internet, so our school districts were bringing WiFi buses into the communities to provide the WiFi. Parents could bring their kids to where the bus was parked, access WiFi in order for them to finish their studies for the school year. It is important for telemedicine, that we have seen the importance of telemedicine in the pandemic.

These are issues that this committee ought to focus on and ought to address. I want to thank the panelists for being here today, and I appreciate the hearing.

And with that, Mr. Chairman, I yield back.

Mr. TONKO. The gentleman yields back.

The Chair now recognizes Representative McNerney for 5 minutes of questions.

And, Representative, unmute, please.

Mr. MCNERNY. Thank you, Mr. Chairman, and I thank the ranking member and the panelists, good discussion so far this morning.
The city of Stockton, California, which is the biggest city in my district, has one of the largest environmental justice communities in the State of California. Our community has historically borne disproportionate pollution burden as a result of redlining and other discriminatory policies, such as illegal dumping and air pollution near schools. We know all too well the connection between environmental injustice and public health, and South Stockton has one of the highest rates of asthma in the United States as a result of breathing polluted air.

Ms. Patterson, throughout the global coronavirus pandemic, the EPA has continued to aggressively move forward with a number of rulemaking procedures, including ones that would jeopardize the public health and environmental health. That is why this past April I cowrote a letter that was signed by 77 of my colleagues urging the EPA to extend their public comment periods by at least 45 days after the end of the declared emergency. Doing so would ensure that all Americans have an opportunity to participate in the rulemaking process. That is the expectation of the law.

Do you see any way for the EPA to change course and engage our frontline communities on a fair and meaningful basis during the pandemic and beyond?

Ms. Patterson.

Ms. PATTERSON. I am so sorry, I forgot to unmute here.

Yes, I mean, certainly the EPA has—historically, we have engaged extensively with them on their rulemaking hearings and comments, opportunities, and so forth, to ensure that there is access. And we have had success with making sure that they are—that they happen in different places, and so that there is greater access. And I think that, given the COVID–19 reality, one key step that the EPA will have to take is to engage with local—with organizations that represent frontline communities to ensure that, if there are Zoom calls or if there are other ways to give input, that those conversations continue to really maximize input. And in some ways, the in-person meetings can actually be—will be supplemented by the virtual meetings where people who aren’t able to be mobile or people who can’t afford to go to these places can actually have other means for participation.

Mr. McNerney. Thank you. These are positive recommendations.

Ms. Patterson. I am so sorry, I forgot to unmute here.

Yes, I mean, certainly the EPA has—historically, we have engaged extensively with them on their rulemaking hearings and comments, opportunities, and so forth, to ensure that there is access. And we have had success with making sure that they are—that they happen in different places, and so that there is greater access. And I think that, given the COVID–19 reality, one key step that the EPA will have to take is to engage with local—with organizations that represent frontline communities to ensure that, if there are Zoom calls or if there are other ways to give input, that those conversations continue to really maximize input. And in some ways, the in-person meetings can actually be—will be supplemented by the virtual meetings where people who aren’t able to be mobile or people who can’t afford to go to these places can actually have other means for participation.

Mr. McNerney. Thank you. These are positive recommendations. I appreciate it.

Also, as summer approaches, I am concerned about what will be the impacts of extreme heat, which disproportionately impacts environmental justice communities, along with the COVID–19 and the social distancing that it requires. Would you discuss the issues, as well as the need for expansive long-term solutions to addressing the impact of extreme heat on the vulnerable population?

Ms. Patterson. Yes, certainly. So, coming from Chicago, where we all know, unfortunately, of the deadly heat wave that took place in 1995, I am all too well aware. And in doing the work now with organizations like the Union of Concerned Scientists and many frontline communities around the urban heat island effect, we are making sure that community-led solutions around the urban heat island are being advanced, both in terms of research, policymaking, and implementation at the local level.
So, again, it really goes back to making sure that those doors are open in terms of dialogue, so that we have aggressive policymaking and aggressive funding and implementation of the measures to protect communities, everything from building retrofits that will provide better opportunities for—or better infrastructure for families, to having cooling centers and making sure that, again, in this COVID reality, that we structure cooling centers in a way that allows for social distancing and more.

Thank you.

Mr. MCNERNEY. Thank you.

When environmental justice communities traditionally exist in food deserts as well, which create food insecurity and can have damaging impacts on the human body and its ability to fight disease, can you speak to how these two issues, food insecurity and lack of access to medical care, are impacting environmental justice communities?

Ms. PATTERSON. Absolutely, yes. Unfortunately, we have seen even with COVID–19 how the tie between both food insecurity, in terms of the differential vulnerability, because food insecurity definitely exacerbates conditions like diabetes, high blood pressure, heart conditions, and so forth, that, again, makes folks more vulnerable to COVID–19. And then also, on the other side, with COVID–19 affecting our economy, that people who were already food insecure aren’t able to access food in the way that they should.

So for us, we actually launched an initiative called Seeds of Resistance and Resilience to actually provide seeds to communities as well as supplies for raised-bed gardens, and then also providing demos for recipes for folks so that we can really bridge that gap in both kind of food sovereignties so people aren’t reliant on a grocery store that isn’t actually there, so they can actually start to grow their own food and have a reliable, affordable source of consistent nutrition.

So, yes, thank you.

Mr. MCNERNEY. All right. Thank you. My time is expired.

And I yield back.

Mr. TONKO. The gentleman yields back.

The Chair now recognizes Representatives Ruiz for questions for 5 minutes.

And, Representative, please unmute.

Mr. RUIZ. Thank you, Mr. Chairman, and thank you to all of the witnesses for testifying.

I am looking forward to eventually also discussing my Environmental Justice Act, which addresses many of the issues brought up today. It would account for the cumulative impact of pollution, provide capacity support for low-income communities, and alleviate systemic barriers.

Today, we are discussing how environmental justice communities, their exposure to pollution increases underlying pulmonary illnesses and therefore increases their risk of dying from COVID–19. Consider the fact that COVID–19 is primarily a respiratory illness that severely impacts lung function. My constituents in EJ communities already face some of the highest rates of asthma, which is linked to the poor air quality from the chemical-laden dust blowing from the receding shores of the salt and sea, dust from un-
derdeveloped neighborhoods from years of neglecting infrastructure development investments in these underserved communities, and toxic airborne hazards from companies, even without proper permits to function.

Consider that hand washing is key for prevention, yet some privately owned, independent water systems contain toxic levels of arsenic in their water. COVID–19 is intensifying the threat of environmental injustices to public health.

A study from Harvard published in April of 2020 found that long-term exposure to air pollution is associated with higher COVID–19 mortality rates. And what did the EPA do? It announced a non-enforcement policy under all environmental laws during the COVID–19 pandemic for monitoring and recordkeeping requirements.

Mr. Ali, after working with the EPA for 24 years, you are keenly familiar with the risks environmental justice communities face. What do you think will be the impact of EPA’s decision on environmental justice communities during the pandemic?

Mr. ALI. I think more people are going to get sick and more people are going to lose their lives.

Mr. RUIZ. OK. And I agree with your assessment, which is why I worked with Representative McEachin to introduce H.R. 6692, the Environmental Justice COVID–19 Act, which was included in the HEROES Act and passed the House last month. This bill would provide $50 million for EPA environmental justice programs to monitor pollution, investigate the impact of COVID–19 on environmental justice communities.

The EPA’s Environmental Justice Small Grant Program is a grant that local groups can apply for to mitigate instances of environmental injustices, and the EPA’s CARE Grant Programs provide support to help communities form collaborative partnerships, many like the ones that were formed here in my district, develop comprehensive understandings of risks from toxic and environmental pollutants, set priorities, identify and carry out projects to reduce risks through collaborative action at the local level. And then, finally, the EJ Collaborative Problem-Solving Cooperative Agreement Program helps community-based organizations partner with the experts and local stakeholders to develop and implement solutions and address environmental and public health issues for underserved communities.

Mr. Ali, in your experience working with the EPA, have any of these EJ grant programs helped equip EJ communities to better advocate for themselves? And how important would these grants be for them in the context of COVID–19?

Mr. ALI. These grants are extremely important in relationship to COVID–19. We created a similar program during the BP oil spill, to specifically make sure that folks had the resources and information so that they could make the best decisions for themselves, and to also be fully a part of the work that was going on at that time.

We need to continue to fund these programs in this COVID–19 moment and beyond, so that communities can build infrastructure, so that they can build stronger foundations underneath of themselves.
And if I could, I would just also like to highlight, the programs that you mentioned have also been extremely important in actually transforming communities. So we have heard a lot about the Opportunity Zones that are doing some positive work. The collaborative problem-solving model in the environmental justice small grants program was a part of the ReGenesis Project, which took a $20,000 grant and has now leveraged into $300 million in changes. So we often talk about investments. If we can invest $20,000 in a community and get a return of $300 million in changes, that seems like something we should be continuing to expand.

Mr. Ruiz. You know, many people try to define, what do you mean by systemic racial injustice. Can you talk about how the EJ community experience, especially with COVID–19, is a racial injustice, systemic injustice?

Mr. Ali. Well, without a doubt. It runs throughout almost all of the components.

On the medical side, we know that there are biases in the medical system where many times, if you are a person of color and you go to the doctor, you get, you know, some type of a lesser diagnosis, which then can have all sorts of problems that follow afterwards.

We also know, of course, on the environmental side, there is a racial component. We can’t get away from that, but we can change it in the decision making that has happened in the past, and where we have located our most toxic facilities. That is just the reality of the situation, but we can fix that problem.

And then we run down through many of the other items that we have talked about today that are directly tied to a history of systemic racism. If we look at our housing, housing has often been placed in the most dangerous locations, the lower locations in floodplains, so forth and so on. So we have seen this play out.

The message today is that we can change that, that each of the Members who are here and who are in the esteemed bodies on Capitol Hill, we can decide that we want——

Mr. Ruiz. If we change it, we must change it so that no matter the ZIP Code, race or age, everyone has access to clean water and clean air.

Yield back my time.

Mr. Tonko. The gentleman yields back.

The Chair now recognizes Representative Dingell for 5 minutes for questions. And, Representative, unmute, please.

Mrs. Dingell. Thank you, Mr. Chairman, for holding this important hearing today, and to all of the witnesses for being here on this critical subject on disproportional impacts on frontline communities of color and low-income families.

In Michigan, we have been particularly hit hard. We are fourth in the number of deaths in the country. We have nearly 2 million unemployed, and lives have been forever changed. And what is most troubling is that African Americans make up 40 percent of the COVID deaths in Michigan, and they are only 14 percent of the population.

For too long, these communities have had to bear the brunt of the burden during the worst of times, and as people are bravely marching peacefully against injustice across this country, we have
to renew our fight for greater environmental justice. Every bill that Congress considers now must take these issues into account.

But today, I want to focus my questions on access to clean drinking water. I thank Chairman Tonko for recognizing the issue at the very beginning of this, its affordability and why it is so important for environmental justice communities during a pandemic. But I worry about it when we are done too, because I believe that water is a basic human right. Because COVID didn't create a water crisis, it exacerbated the existing one.

Mr. Hawkins, I love you even though you are from Ohio State, or from Ohio, but, hey, I am going to—hey, we have got to keep a little sports humor in all of this or we are done. I miss sports. But I want to address my questions to Mr. Ali and Ms. Patterson.

According to the CDC, one of the most effective ways to prevent the spread of COVID is just wash your hands for 20 seconds regularly with soap and water. Well, you can't do that if you don't have any running water. Access to clean water is a basic human right, and it is critical for hygiene and safety.

I would like to first start with you, Mr. Ali—I am going to ask you to be short—and then Ms. Patterson. Could both of you give this community an overview of how COVID–19 has impacted the access to clean water in environmental justice communities, and would you tell us or highlight what we can do as a Federal Government as far as things stand today for water shutoffs nationally, and what do we need to do to make sure it continues to flow?

Mr. ALI. Well, the first thing we need to do is to make sure that we are strengthening our infrastructure and making sure that, in the strengthening of the infrastructure, that we are also making sure that our most vulnerable communities as in relationship to the pricing of water, we need to make sure that there is actually equity that is a part of that process. We also have to make sure that with the—extend the moratorium on water shutoffs.

Now, there are, in Detroit and across the country, folks like Ms. Monica Patrick with We the People of Detroit and others have been working diligently to make sure that that is brought to the attention of folks both in the State House and the Federal House, so we have to do that.

We also have got to make sure we are making investments in our natural infrastructure, which helps to clean water and helps to take the burden off of many of the water filtration systems that are out there.

So those are just a couple of things, and I will turn it over to Ms. Patterson.

Mrs. DINGELL. Ms. Patterson.

Ms. PATTERSON. Thank you so much.

Yes, so definitely echoing what Mr. Ali said and just to add that we also need to make sure that we are pushing back against water privatization, and so that we don't have water systems that are run for profit, that we make sure that we have water systems that are meant to serve people and uphold human rights.

We definitely have to increase our investments, as Mr. Ali said, in water infrastructure so that we don’t—because even now, one of the things that was exacerbated by COVID–19 is to the extent that there are some folks who don’t trust their water, and they have to
access through water bottles and so forth. So having to do that when you don’t even have a grocery store nearby and given the weight of water, and so people are in harm’s way just trying to get the water that they can drink because the water coming out of their pipes isn’t safe.

So we need to make sure that we don’t have—especially as we know that, by all accounts, the COVID–19 is going to resurge. It is still going on now, and we are going to have a resurgence of it. So we need to have permanent solutions and not just temporary moratoriums on water shutoffs, but no one should be deprived of the essential resource of water.

And so, definitely following in the footsteps, as Mr. Ali said, that the folks of We the People of Detroit to have a community government structure around water systems is something that we should definitely institute.

Thank you.

Mrs. Dingell. Sure. So I am out of time, but I would like to thank the committee leadership, because water is a basic human right, which is the bill that I introduced with my colleague, was included in the most recent bill passed by the House, the HEROES bill. And there are 15 million people in the United States that don’t have running water or have had a water shutoff. We all need to really think about that. One in 20 households in this country.

Thank you, Mr. Chairman.

Mr. Tonko. You are most welcome, and the gentlelady yields back.

I believe we next have Representative Burgess available for 5 minutes for questions.

Representative, unmute, please.

Mr. Burgess. Yes, sure. Thanks for letting me waive on to the subcommittee. It has been a fascinating discussion during the day.

Mr. Hawkins, if I could ask you, in regards to Opportunity Zones, I was intrigued, I actually pulled the Opportunity Zone for the congressional district that I represent.

Mr. Hawkins. Yes.

Mr. Burgess. In my former life as a physician and my medical practice was actually located smack dab in the middle of an Opportunity Zone, and had I only known, perhaps I could have accessed some significant help. But that—so what is the—in your experience, with healthcare facilities in Opportunity Zones, what are some of the possibilities, what are some of the opportunities there?

Mr. Hawkins. Sure. And, so, just as a quick note, had you had your practice in an Opportunity Zone, you wouldn’t have been able to draw the benefit just from existing there. You actually had to make a substantial improvement on your practice, which is to say you would have had to invest the full cost basis of your business in improving that business in order to access the benefits.

So, you know, let’s say that you have a business that is worth a half million dollars. In order to benefit from the policy, you have to invest an additional half a million dollars on new employees, a better facility, or other significant improvements in order to draw on the policy. So that is one of the things.
So you can look at every existing healthcare business in an Opportunity Zone as benefiting. You can also look at building out rural broadband, building out urban broadband, so that telehealth is a broader option.

We can look at, again—you know, when we are looking at one of our members, they are going to be distributing test kits but then also building modular testing facilities so that folks can do the tests separate and apart from the broader hospital facility, but still within an accessible distance.

And so, all of those are things that we have seen built out, because in the healthcare space——

Mr. BURGESS. OK.

Mr. HAWKINS [continuing]. The communities that are designated as Opportunity Zones do suffer from worse health outcomes, but also worse health conditions than the population at large, obviously.

Mr. BURGESS. Just as a point, a data point, my medical practice in the late 1980s, when the savings and loans imploded across the country—you are probably too young to remember that—the Resolution Trust Corporation came to town. I attempted to get an SBA loan back then and was unsuccessful, but that is a different story for a different time.

Can you speak to the same issues in the energy sector? Are there places where the Opportunity Zones intersect with businesses that provide and distribute energy?

Mr. HAWKINS. Sure. Well, as I note in my testimony, there is already sort of a jump that the designated Opportunity Zones has on clean energy with, you know, 475 solar facilities being built out, you know, so far. So anything that involves significant innovation, any energy space you are going to see, but beyond that, there are two elements for more traditional energy where we have seen a lot of growth.

One is folks who are providing services to existing energy companies. So, you know, again, we have members up in Alaska, and there are folks who provide, you know, for BP and others operating in the north of the country, there are folks that provide services for them, everything from uniforms to lunches and food for the workers, and things along those lines. But then, for the larger energy companies, they can benefit from the policy and benefit by building out a subsidiary within an Opportunity Zone.

Mr. BURGESS. OK.

Mr. HAWKINS. The idea is, if you are going to be hiring folks, if you are going to be bringing new workers in, and if you are going to be bringing more resources to these areas, then we don’t mind if you are an existing company, you just drop a subsidiary down in a zone and you are good to go.

Mr. BURGESS. All right. Thank you.

Mr. Ali, I apologize. I wanted to get to you and give you an opportunity to address the issue about enforcement that you started to earlier, and I don’t guess we have the chance, but I would like to hear your thoughts on that before this concludes today.

I yield back.

Mr. TONKO. The gentleman yields back.
And we now recognize Representative Clarke for 5 minutes of questioning. And unmute, please, Representative.

Ms. CLARKE. Thank you so much, Chairman Tonko and Ranking Member Shimkus, for holding this hearing today on environmental justice, and thank you to all three of our witnesses for joining and offering your testimony.

Let me just begin by saying that I think this is both an extremely important and extremely relevant hearing for us to be having in this particular moment in our Nation's history, as we grapple with the long legacy of systemic racism and injustice that continues to permeate the many echelons of our society and its institutions.

The protests and public outcry during this past couple of weeks over the killing and abuse of black women and men at the hands of those sworn to protect and serve them, add to this the disparities that have been laid bare in recent months regarding the impacts of the coronavirus, COVID–19 pandemic are, in my eyes, highly related events. They have served to bring those deep and pervasive injustices to the foreground of the national conversation. This intersectionality is undeniable.

I also believe that the COVID–19 pandemic, in particular, has shown us perhaps more clearly than ever that issues of environmental justice do not simply exist alone amongst themselves in a vacuum. To the contrary, environmental injustices have wide-ranging impacts that manifest themselves in all manner of social, economic, and health-related ways, and the times of great crisis tend to both amplify and be amplified by environmental injustices within most vulnerable communities.

My first question shows to begin my line of questioning, I would like to first focus on the issue of air pollution that continues to be a major source of environmental justice in my Brooklyn community. In fact, Brownsville, Brooklyn, one of the neighborhoods within my congressional district, actually has the highest rates of adult asthma out of any neighborhood in New York City.

We know from years upon years of research that reveals that Black, Latinx, and Native American communities in this country suffer disproportionately from respiratory and cardiovascular conditions, including asthma, as a direct result of environmental factors, such as high levels of local air pollution.

We also know that COVID–19, which is predominantly a respiratory virus, adds impact to the Black, Latinx, and Native American communities at rates that far exceed their share of the population.

So my first question is to Dr. Ali. Can you first please share with us your thoughts on the connection between air pollution and the disparities that we have seen with COVID–19? And can you also tell us, from an environmental justice perspective, where you think our focus should be when it comes to addressing this major issue of air pollution in communities like Brooklyn?

Mr. ALI. Definitely. Thank you, Congresswoman.

You know, we all know now that the data is out there that there is a direct connection between the air pollution, PM_{2.5}, PM_{10}, and also ultrafine particulates in relationship to communities of color and lower wealth communities and on indigenous land. And we
also know that there are chronic medical conditions that come from the exposure to this air pollution. We also know that as the temperature rises that air pollution also becomes more deadly.

So, knowing that we have these factors coming together along with those chronic medical conditions that make us more susceptible to the coronavirus, would lead one to believe that we should be doing everything that we can to lessen the emissions that are happening inside of these communities of color, and that can be done by making sure that we are not only honoring the Clean Air Act and all of the respective parts that are there, but also that enforcement is actually happening inside of these communities to make sure that folks are living up to the letter of the law.

Ms. CLARKE. Thank you so much for that.

I want to just turn quickly to the issue of housing. Here in Brooklyn, New York, we have had a lead paint scandal, with thousands of adults and children living in public housing exposed to toxic levels of lead paint. After Superstorm Sandy, right here in New York, we saw that the worst impact took place among our low-income communities and communities of color, who did not have the resources to receive the assistance quickly to rebuild or relocate their homes. Now, again, with the coronavirus pandemic, we see how important it is to have a home environment that is both safe and affordable.

Ms. Patterson, do you believe that having access to safe and affordable housing goes hand in hand with achieving environmental justice? And what do you think can be done on the Federal level to achieve greater environmental justice when it comes to housing in our Nation?

Ms. PATTERSON. Thank you for the question. Yes, absolutely. Housing justice is integral to environmental justice and the safety and well-being of our families, communities, individuals. And so, yes, we absolutely need the—we need better subsidies for housing retrofits and improvements, not just in terms of energy efficiency, but also in terms of lead remediation and because we are seeing disproportionately, whether it is lead, asbestos, radon, all of these indoor air pollutants that are compounding the other toxins that are affecting homes.

We also need to be thinking about not just improving core housing, but we need to be thinking about land security and housing security as a whole, and thinking about how do we put more folks on the pathway towards home ownership. We know that Black land loss is something that is historic and present day, and we also know that land ownership and housing ownership is key to climate resilience and economic security in general.

So we need to have much more in the way of programs that lead to a pathway of home ownership and housing security.

Thank you.

Ms. CLARKE. I thank you all, and I yield back, Mr. Chairman.

Mr. TONKO. The gentlelady yields back.

And the Chair now recognizes Representative Schakowsky for 5 minutes of questioning.

And, Representative, unmute, please.

Ms. SCHAKOWSKY. I think I am unmuted. Can you hear me?

Mr. TONKO. We can hear you, so you are doing fine.
Ms. SCHAKOWSKY. OK. Very good. Thank you. This has been an amazing, amazing hearing, I really appreciate it.

The City of Chicago has been deeply affected by environmental injustice, and we know that, in Chicago, African Americans account for 60 percent of the city’s COVID–19-related deaths, despite the fact that they represent about 30 percent of the population of the City of Chicago.

And I think that this has really made clearly the point that EJ communities have been double deeply affected by the virus and all of the existing problems that have come before it, and that it is a public health as well as an environmental health issue.

This administration has rolled back or plans to reverse over 100 environmental rules. It must be particularly painful to you, Mr. Ali, to see that happening. And, in fact, just this week, we have seen the President sign an Executive order to accelerate permitting of major infrastructure programs and projects waiving environmental review for pipeline and highways and other projects.

Experts warn that this action will have a disproportionately negative impact on the communities that we have been talking about.

So, Mr. Ali, what I want to ask you, you know, the President had talked about warm weather is going to get rid of this virus, but I just heard you say that you thought that the summer temperatures, the higher temperatures, are actually going to exacerbate the problems. Is that true?

Mr. ALI. Well, warmer weather exacerbates air pollution.

Ms. SCHAKOWSKY. Yes.

Mr. ALI. The finding of smog and many of the other things that you see, that also impacts ozone. So all of that coming together just causes additional burdens in these communities.

Ms. SCHAKOWSKY. Thank you for that.

You know, I wanted to read something from—the United States Environmental Protection Agency defines environmental justice as, quote, “the fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income.” And I am just wondering, Mr. Ali—and I would also like to ask Ms. Patterson about that—if you really see that happening, particularly the issue of meaningful involvement of those communities.

Mr. ALI. Well, I will start very quickly. With both of those aspects, because I was around when we created that definition: fair treatment, most definitely not. If there was fair treatment, there would be honest analysis about these additional impacts that are going on in our most vulnerable communities, in communities of color, lower-wealth communities, and on indigenous land. Meaningful involvement. If there was true, meaningful involvement, then we would be engaging with the individuals, before these decisions are being made, to be able to mitigate the impacts that are happening. And, you know, the interesting thing is that the Environmental Protection Agency has even said with some of the actions that they have done, some of the rolling back, if you will, that there are going to be less lives that are protected.

So I am not sure how you can make a statement that says “Less people are going to be protected, but I am OK with that.” These
are our tax dollars that are literally being utilized to impact these communities, and that is unacceptable.

Ms. SCHAKOWSKY. Do I have any moments left for Ms. Patterson to speak to that?

Ms. PATTERSON. OK. So, yes, I will just reiterate what Mr. Ali said in terms of certainly fair treatment wouldn’t mean that we have kids who are two to three times more times likely to die of an asthma attack and three or more times likely to enter in the hospital from an asthma attack. Their treatment wouldn’t mean that we would have adults who are more likely to die of lung cancer but less likely to smoke. Their treatment would mean that we are disproportionately located in cancer clusters throughout the Nation. And if we had equal engagement, then these things wouldn’t be happening in the first place, because we—our communities know the solutions that are going to protect our health and wellbeing.

So we—so, in answer to your question, definitely not fair treatment, and definitely not meaningful engagement, or the world would look a lot different.

Thank you.

Ms. SCHAKOWSKY. Thank you. Thank you so much. Am I out of time? I can’t—

Mr. TONKO. You are out of time.

Ms. SCHAKOWSKY. Oh, OK. Thank you. I appreciate it.

Mr. TONKO. OK. The gentlelady yields back.

Now I believe we go to Representative Castor for—oh, I am sorry. We go to Representative Kennedy for 5 minutes of questions.

And, Representative Kennedy, ready to go.

Mr. KENNEDY. Mr. Tonko, thank you.

And thank you to our witnesses for being here today and for an extremely important conversation.

The disparate impacts of COVID–19 are obvious and nationwide. In Massachusetts, they are also undeniable. All of the communities with the highest rates of COVID–19 in Massachusetts are also environmental justice communities.

Last month, I sent a letter to President Trump calling for the appointment of an environmental justice expert to the Coronavirus Task Force and calling for all future actions to prioritize communities that are most at risk.

But it is clear that we need to do much more than that. We need to confront the causes of air pollution that increase rates of asthma and other comorbidities that leave our communities uniquely vulnerable not just to pandemics, but to countless health challenges every single day.

So, Ms. Patterson, I want to start with you. I know you touched on this a bit. But how do we right this ship, and how do we give communities of color and people of color more voice in the Government’s response to COVID–19?

Ms. PATTERSON. Yes. Thank you so much for the question.

So certainly we have to have more of a—more—I am sorry, I am trying to think how to articulate this—more forums for community engagement and community decision making. I know it has been a tough pivot because some of our traditional ways of having community engagement haven’t been available to us in terms of hear-
ings and so forth. But we have to make that pivot because, as I said before, communities do know the solutions that will work for them.

And so we need to engage with the frontline base-building groups that know how to connect with communities and figure out how we are going to pave those pathways for dialogue, for input, and for shared decision making around solutions that work.

That is my first short answer. I know you have limited time.

Mr. KENNEDY. Thank you.

And, Mr. Ali, what are your thoughts?

Mr. ALI. Well, there are some things that I shared with the administration when they first came in. One of them is that at the Environmental Protection Agency they should have a senior adviser for environmental justice. I don't know how you can adequately address these issues if you don't have someone who shared with the Administrator, OK, if you go this way, this is going to happen; if you go that way, that is going to happen.

In relationship to the White House, they should also have someone who has expertise in these areas to also help them. So, if you are working on Opportunity Zones, you should also have someone who understands environmental justice to help to make sure that process, it is fully engaging and protecting all the folks.

And if you really want to get good with it, then you make sure the 17 Federal agencies that have a responsibility for environmental justice out of Executive Order 12898 also have senior leadership who is talking to Ben Carson at HUD and saying, “Hey, you know, here is what some of the impacts are, how can we think critically about our resources to make real change happen?” Or at the Department of Energy, how do we make sure that we are leveraging our resources and expertise to actually uplift these communities?

So we have been having a conversation about economics and jobs along with the impacts that are happening from COVID–19. So let’s also make sure that the Department of Labor and the Department of Commerce and the Small Business Administration also have someone who is having these conversations with them and they are also opening up the doors to make sure that frontline communities are helping to lead many of those conversations since the impacts, whether negative or positive, are going to come back to their communities.

And that is what representative government should be looking like, and that is how we actually give real people something to frame out policy and actions that benefit everyone.

Mr. KENNEDY. So building off of that, Congress and particularly the Senate, still has serious work to do to respond to the pandemic and help our country recover. The last thing we should include in our recovery efforts is a bailout for big fossil fuel companies.

So, Mr. Ali, how would bailing out oil and gas while failing to invest in environmental protection or environmental justice communities hurt Black and Latinx individuals?

Mr. ALI. I mean, in so many ways. You know, it is funny, the oil companies—so let me say it this way. You know, going back to my early statement, when my grandmother, when she said, “When you know better, do better.” You know, if this was 100 years ago,
75 years ago, of course, fossil fuels played a huge role and were necessary in helping to build the infrastructure of our country. We now know that there are other opportunities.

So when we move resources to those entities that are playing a role in impacting our communities, there is something wrong with that formula when we are not also equally moving opportunities to cleaner forms of energy and also rebuilding these communities that have been impacted by the actions that we are supporting now with our dollars and that we did in the past.

Mr. KENNEDY. I will have to leave it with that. Thank you both.
I yield back. Thank you.
Mr. TONKO. The gentleman yields back.
I believe that concludes all of our colleagues that wish to ask questions of our witnesses?

If so, then I would like to thank our witnesses for joining us for today's hearing. The input has been very valuable.

I remind Members that, pursuant to committee rules, they have 10 business days by which to submit additional questions for the record to be answered by our witnesses. And I ask that our witnesses to please respond promptly to any such questions that they may receive.

I now request unanimous consent to enter a number of documents into the record.

Mr. SHIMKUS. I am trying. I can't get on.

Oh, Mr. Chairman?

Mr. TONKO. Yes, sir. I have some documents I was going to announce. Do you have additional ones there?

Mr. SHIMKUS. I don't know if they are additional. I will just go through them real quick. I know they have been vetted. Can I just name them real quick?

Mr. TONKO. Sure.

Mr. SHIMKUS. The June 8, 2020, letter from EPA Administrator Wheeler to committee outlining concerns with the lack of peer review of the Harvard study; May 13, 2020, letter from EPA to New York Attorney General's Office outlining EPA's COVID–19 temporary enforcement policy and that the EPA is continuing to enforce the laws; June 2020 letter from EPA to Congress with EPA's 2019 Air Trends report showing reductions in emissions; August 2018 letter from the Conference of Mayors to the IRS in support of Opportunity Zones; and the last one being this 2020 Association of Air Pollution Control Agencies Trends and Success Report showing improvements across the country.

Those are the five that we had.

Mr. TONKO. OK. I also did have a letter from WE ACT for Environmental Justice, a letter from the West End Revitalization Association, and I believe a report by EPA entitled “Our Nation’s Air 2020.”

Does that conclude all?

Mr. SHIMKUS. I think that does.

Mr. TONKO. And a bicameral letter to the EPA.

Mr. SHIMKUS. OK. I think that is—we have all agreed upon those.
Mr. TONKO. OK. So with all of those—there is a request for unanimous consent to enter the documents into the record. Any——
Mr. SHIMKUS. Without objection.
Mr. TONKO. No objection. Without objection, so ordered.
[The information appears at the conclusion of the hearing.1A¹]
Mr. TONKO. So at this time the subcommittee is adjourned.
Mr. SHIMKUS. Great job, Chairman.
Mr. TONKO. Thank you very much, everybody.
[Whereupon, at 3:11 p.m., the subcommittee was adjourned.]
[Material submitted for inclusion in the record follows:]
June 8, 2020

The Honorable Frank Pallone, Jr.
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Greg Walden
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Paul D. Tonko
Chairman
Subcommittee on Environment and Climate Change
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable John Shimkus
Ranking Member
Subcommittee on Environment and Climate Change
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Pallone, Chairman Tonko, Ranking Members Walden and Shimkus,

I am writing in response to the widespread attention and false claims in the media and within Congress attempting to link recent actions taken by the U.S. Environmental Protection Agency to an increase in air pollutants—specifically particulate matter (PM)—and COVID-19 mortality.

In April 2020, Harvard researchers released a study showing an association between long-term exposure to PM$_{2.5}$ and increased short-term COVID-19 mortality rates. This study, which has not been peer reviewed, claimed that an increase of only 1 ug/m$^3$ in PM$_{2.5}$ over 17 years is associated with a 15 percent increase in the COVID-19 death rate. Almost immediately after releasing the draft study, the researchers corrected the study, dropping this finding to an 8 percent increase in death rate. The study authors’ nearly 50 percent downgrade of the potential impacts is reflective of a broader need for a full peer review and raises questions about other possible flaws which may be uncovered with such a review. Drawing conclusions from a study without peer review and with insufficient data is irresponsible and can paint a distorted scientific picture.

Consistent with longstanding Agency policy and OMB guidance, all scientific and technical information supporting EPA decisions must be peer reviewed. As such, the EPA will not consider this study’s findings unless and until a robust peer review process is complete. Furthermore, we hope the authors of this study make their underlying data available so that other researchers can double check and reproduce the analysis, a pragmatic step towards transparency in science. EPA scientists have already identified a number of uncertainties that we hope will be cleared up in the peer review such as an ill-fitting statistical model and poor discussion of...
confounding variables impacting the situation. The study does not discuss patients moving geographical locations, the changes in ambient conditions over the past three years, the possibility that ambient concentrations may not be the same as personal exposure, or whether the models are accurate for making county-level measurements.

Moreover, the study unfortunately includes an uninformed if not intentional misrepresentation of EPA’s COVID-19 temporary enforcement policy. There is no suspension of EPA enforcement. EPA continues to enforce environmental laws and protect human health and the environment nationwide during these unprecedented times. The temporary policy does not offer enforcement discretion for increased emissions. No increase in emissions is allowed under the policy. The broad claim that the temporary policies relaxes environmental rules is false and is in no way relevant to the study’s conclusion that 17 years of exposure to PM2.5 is potentially associated with COVID-19 deaths and presents another reason for a robust peer review of the study. Given the study’s shortcomings, it is unfortunate that it has received favorable and wide-spread media coverage during the height of the COVID-19 pandemic without these caveats.

Among many methodological and analytical shortcomings, the study’s use of ambient PM2.5 concentration data from 2000 to 2016, and its conclusion that “a small increase in long-term chronic exposures to PM2.5 leads to a large increase in COVID-19 death rate...” fails to consider the real world scenario. From 2000 to 2018, EPA’s enforcement of existing air pollution standards resulted in reductions of PM2.5 concentrations in the United States by 39 percent on average. With such a large decrease in exposure to concentrations of PM2.5, especially over the last decade, the Harvard study ignores the reality of EPA’s longstanding clean air regulatory regime and correlative reduction in air pollution in the United States.

Looking back over just the last three years, under the Trump Administration, the number of days listed as unhealthy for sensitive groups has dropped by 34 percent. Further, during the Trump Administration we have seen the following drops in emissions of criteria and precursor pollutants:

- Nitrogen Oxides (NOx) decreased by 10%
- Particulate Matter 2.5 (PM2.5) decreased by 1%
- Sulfur Dioxide (SO2) decreased by 16%
- Carbon Monoxide (CO) decreased by 6%
- Volatile Organic Compounds (VOC) decreased by 3%

Under this Administration, the United States continues to have world-leading emissions reductions—which is producing clean air for our citizens alongside economic growth. EPA’s latest air progress report found that since the passage of the Clean Air Act in 1970 through the end of 2019, emissions have declined by 77 percent and the U.S. economy grew by 285 percent. Since 2000, concentrations of PM2.5 have dropped by roughly 40 percent. A great deal of this progress has taken place in low-income counties across the country. It is important to note, U.S. fine particulate matter levels are five times below the global average, seven times below China’s levels, and well below France, Germany, Mexico, and Russia.

Despite accusations from some in Congress to the contrary, over the past three years (2017-2019), the combined emission of criteria pollutants and their precursors dropped 7 percent. Under President Trump’s leadership, EPA will continue its mission of protecting public health and the environment by ensuring the continued downward trend of pollutants in our nation’s air. Given these facts, the Harvard study ignores the reality that air quality in the United States has continued to improve under the EPA’s implementation of the Clean Air Act.
Recognizing that science advances and that on a regular basis new knowledge should be incorporated into the analysis, Congress requires that EPA revisit National Ambient Air Quality Standards (NAAQS) for each pollutant every five years. With respect to air pollution and COVID-19, the Agency anticipates that a significant body of peer reviewed studies—perhaps even this Harvard study—will be available for our scientists to consider the next time EPA reevaluates the NAAQS for PM$_{2.5}$.

As demonstrated above, the actions this Administration has taken and will continue to take are expected to result in meaningful reductions of air pollution in the United States. As we approach EPA’s 50th anniversary in December, we can proudly say that Americans now have significantly cleaner air, land, and water than in the past. The Trump Administration is proving that environmental protection and economic health can go hand-in-hand.

If you have further questions, you may contact me, or your staff may contact Joseph Brazauskas in the Office of Congressional and Intergovernmental Relations at Brazauskas.Joseph@epa.gov or (202) 564-5189.

Sincerely,

Andrew R. Wheeler
May 13, 2020

The Honorable Letitia James  
Attorney General of New York  
The Capitol  
Albany, New York 12224

Dear Madam Attorney General:

I am writing in response to your letter dated April 15, 2020, regarding the Agency’s work to protect human health and the environment during the COVID-19 public health emergency. I am sorry that you have been misled by inaccurate characterizations of EPA’s policy on “COVID-19 Implications for EPA’s Enforcement and Compliance Assurance Program” (Temporary Policy). I urge you to read the policy for yourself, as a lawyer. Please be assured that EPA continues to enforce environmental laws and protect human health and the environment nationwide during these unprecedented times.

In doing so, EPA is mindful of the health and safety of the public, as well as American workers, our staff, and the staff of our co-regulators. We also are mindful that the COVID-19 public health emergency may affect facility operations and the availability of key staff, contractors, and others involved in the important work of complying with the nation’s environmental protection laws. Finally, we are mindful that the COVID-19 public health emergency represents an imminent threat to every American, particularly those workers who cannot telework from the safety of their homes and are on the job, keeping our infrastructure running and monitoring environmental compliance.

The number of deaths in the United States from COVID-19 has now passed 80,000 and over 1.3 million persons have tested positive for the virus. These statistics underscore the need to find a responsible path forward, one that allows facilities providing essential services (and thus exempt from the stay at home orders that many governors have issued) to stay operational while also protecting their workers and the public. The imminent health risk American workers may face was demonstrated recently by the dramatic spread of COVID-19 among the workforce at meat processing facilities in Pennsylvania, Colorado, South Dakota, Iowa, and Minnesota.

EPA’s Temporary Policy appropriately balances these considerations and provides a transparent statement of how and when EPA will consider exercising enforcement discretion.

Even though it is likely that not all are currently operating, there are over 1,100,000 facilities that have environmental responsibilities and are identified as active facilities in EPA’s Enforcement and Compliance History Online (ECHO) database. Given the size of this universe, under the EPA’s
Temporary Policy a facility does not have to wait for EPA approval to implement worker protections that could impact compliance with routine monitoring and reporting requirements. However, the Temporary Policy also clearly states that regulated parties must “make every effort to comply with their environmental compliance obligations.” The burden is on the regulated entity to demonstrate that its noncompliance was caused by the COVID-19 public health emergency. The Temporary Policy also specifies entities should use existing procedures to report noncompliance with routine activities pursuant to an applicable permit, regulation, or statute. An example of such a procedure is the reporting requirement in all Clean Air Act Title V permits found in 40 C.F.R. 70.6(c)(5)(iii). Further, on March 31, EPA issued an advisory for NPDES permittees on how to report COVID-19 related noncompliance in their discharge monitoring reports.

For operational failures that could result in an exceedance of an enforceable limitation, whether in a fence line community or not, EPA is not turning “a blind eye.” The Temporary Policy calls for notification to regulators (state, tribal, or federal) to allow interventions to minimize any impacts. Where noncompliance has impacts, enforcement discretion, if any, will be determined on a case-by-case basis, depending on the circumstances. The same is true for acute risks or imminent threats. Finally, the Temporary Policy offers no leniency for those who exhibit an intentional disregard for the law or for accidental releases of oil, hazardous substances, hazardous chemicals, hazardous waste, or other pollutants.

As I have discussed with the Environmental Council of the States, EPA’s Temporary Policy notes that states have the flexibility to issue their own policies, tailored to the specific challenges each state is facing, as well as the number of regulated facilities in the state and state capacities. Over 40 state environmental agencies are similarly balancing the acute risk posed by COVID-19 with a short-term recognition that complete compliance with all environmental obligations, particularly routine monitoring and reporting, may not be possible at this time. Many of those policies also apply retroactively and have no expiration date. EPA’s Temporary Policy is directly responsive to many questions that states have asked EPA. See https://www.ecos.org/wp-content/uploads/2020/04/EPA-Responses-to-State-COVID-19-Questions-4-24.pdf.

Examples of state specific responses abound. On March 9, Governor Murphy issued an executive order giving blanket authority to New Jersey agencies “to waive, suspend, or modify any existing rule, where the enforcement of which would be detrimental to the public welfare during this emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary for the duration of this Executive Order.” See https://nj.gov/infobank/eeo/056murphy/pdf/EO-103.pdf.

On March 12, Governor Larry Hogan issued an order authorizing the extension of license and permit coverage in Maryland. See https://governor.maryland.gov/wp-content/uploads/2020/03/License-Permits-Registration.pdf. Maryland’s Department of the Environment (MDE) is prioritizing “enforcement on the most mission-critical matters affecting Marylanders’ public health and environment.” Maryland also closed its vehicle inspection stations and repurposed some for COVID-19 testing. The Maryland Secretary of the Environment thanked “the U.S. EPA for working with MDE to accommodate the temporary pivot under the Clean Air Act so as to make the best of a bad situation and advance an even more urgent type of testing for public health protection.” MDE has announced that “[d]ue to the additional demands of responding to the current crisis, the department understands there may be a need to exercise some discretion and flexibility in enforcement of environmental regulations during the state of emergency, but this will only be done on a limited, case-by-case basis.” Like the general conditions of EPA’s Temporary Policy that apply to any exercise of enforcement discretion, including routine monitoring and reporting, Maryland has announced that “[a]ll regulated entities must
make every effort to comply with their environmental obligations and responsibilities, take steps to minimize the effects of any noncompliance and act to return from noncompliance as quickly as possible once the emergency ends. These obligations include monitoring and reporting requirements, which are integral to public health and environmental protection.” See https://mde.maryland.gov/Pages/MDE-COVID-19-Update.aspx. Maryland has fewer than 25,000 facilities listed as active in ECHO.

On March 20, the Iowa Department of Natural Resources (DNR) issued a “COVID-19 Enforcement and Compliance Protocol.” The Iowa protocol describes the enforcement discretion the DNR will provide “in an attempt to balance the need to protect and maintain Iowa’s natural resources against the need to protect people from infection. See https://www.iowadnr.gov/about-dnr/social-media-press-room/disaster-assistance#3057321-covid---19-outbreak. Iowa has fewer than 11,500 facilities listed as active in ECHO.

On March 23, the Commissioner of New York State’s Department of Environmental Conservation issued an emergency declaration that, among other things, allowed its regional staff to “issue emergency authorizations to allow for changes in operations of existing facilities to control and combat the COVID pandemic.” See https://www.dec.ny.gov/docs/permits_operations_pdf/covid19emergdec.pdf New York has fewer than 51,100 facilities listed as active in ECHO.

In conjunction with Governor Kate Brown’s March 23 stay-at-home order, the Oregon Department of Environmental Quality (DEQ) announced it “will continue to exercise reasonable enforcement discretion within its authority in making decisions regarding violations that occurred on or after March 16, 2020, caused by pandemic-related disruptions.” This discretion is offered in recognition that “DEQ must balance its vital obligation to enforce the law and protect the environment with a consideration of the dramatic disruptions to public health and the economy caused by the COVID-19 outbreak.” Further, “DEQ strives to be a full partner in the global effort to stop the spread of the virus and recognizes that the outbreak may affect some regulated entities’ ability to comply with certain DEQ requirements in rules, permit conditions, and orders.” “Some entities may experience staff shortages, service provider interruptions, or other pandemic-related disruptions.” Like the section of EPA’s Temporary Policy applicable to routine monitoring and reporting requirements, “DEQ requests that regulated entities document any pandemic-related disruptions to their operations and explain how these disruptions have caused non-compliance. DEQ will use this documentation in making enforcement-related decisions when violations occur.” See https://www.oregon.gov/deq/Pages/covid-19.aspx. Oregon has fewer than 9,000 facilities listed in as active Echo.

To address “an unavoidable noncompliance situation, directly due to impact from the coronavirus,” the Minnesota Pollution Control Agency (MPCA) established an email box to accept requests for the Commissioner of the MPCA “to consider providing regulatory flexibility, where possible, to assist entities in alternative approaches to maintaining compliance, such as extending reporting deadlines, extensions of operator certifications and other forms of regulatory flexibility.” See https://www.pca.state.mn.us/covid-19/covid-19-and-regulatory-flexibility. Minnesota has fewer than 32,900 facilities listed as active in ECHO.

On March 31, Vermont’s Agency of Natural Resources (ANR) issued a “COVID-19 State of Emergency Enforcement and Compliance Guidance Document.” The Guidance states “ANR does not expect permittees or contractors who provide services to permittees who are not otherwise designated as critical to continue operation for the sole purpose of complying with the terms of a permit, certification, order, or rule.” ANR also states that if a permittee cannot comply with the terms of a permit, certification, or rule during the COVID-19 State of Emergency, the Agency may consider exercising enforcement
discretion on a case-by-case basis. Like the section of EPA’s Temporary Policy applicable to routine monitoring and reporting, ANR’s conditions for enforcement discretion include an after the fact demonstration that the noncompliance is attributable to the COVID-19 pandemic. See https://anr.vermont.gov/sites/anr/files/emergencyinfo/enforcement-discretion-covid-19-guidance.pdf. Vermont has fewer than 5,000 facilities listed as active in ECHO.

On March 31, Michigan’s Department of Environment, Great Lakes, and Energy (EGLE) issued a “Process for Handling Enforcement Discretion Due to COVID-19” in recognition that following the governor’s stay at home order, “disruptions to standard operations may create challenges for regulated entities to meet some legal obligations.” Michigan’s process is an email to EGLE requesting enforcement discretion. According to its website, through May 7, EGLE has received only 110 such requests. Further, in granting enforcement discretion for routine compliance testing, EGLE has relied on EPA’s Temporary Policy. See https://www.michigan.gov/egle/0,9429,7-135--523592--,00.html. Michigan has fewer than 30,000 facilities listed as active in ECHO.

On March 27, Washington State’s Department of Ecology announced it would exercise enforcement discretion, stating “we recognize the public health crisis and economic disruptions related to the COVID-19 outbreak may temporarily affect some of the regulated entities’ ability to comply with all state requirement.” “All applicable state requirements remain in effect, but Ecology will exercise reasonable discretion within our authority when deciding whether to pursue potential violations that may be linked to the current COVID-19 pandemic.” See https://ecology.wa.gov/About-us/Get-to-know-us/Coronavirus-Updates/Compliance-assistance. Washington has fewer than 11,500 facilities listed as active in ECHO. EPA’s Temporary Policy clearly served as model for Ecology’s policies. For example, Ecology, like EPA, has offered relief for hazardous waste generators, stating:

We will allow small quantity generators (SQGs) and medium quantity generators (MQGs) to retain their status, even if the amount of dangerous waste stored on-site exceeds a regulatory threshold because of a generator’s inability to arrange for shipping of dangerous waste due to the COVID-19 outbreak.

Further, Ecology’s policy lifts language directly from EPA’s Temporary Policy:

If this situation applies to your site, you should:

a. Act responsibly under the circumstances in order to minimize the effects and duration of any noncompliance caused by COVID-19;

b. Identify the specific nature and dates of the noncompliance;

c. Identify how COVID-19 was the cause of the noncompliance, and the decisions and actions taken in response, including best efforts to comply and steps taken to come into compliance at the earliest opportunity;

d. Return to compliance as soon as possible; and

e. Document the information, action, or condition specified in steps a through d (above).


Pennsylvania Department of the Environment (PADEP) has established a process to request a temporary suspension of regulatory requirements and/or permit conditions. In addition, PADEP references EPA’s Temporary Policy. See https://www.dep.pa.gov/Pages/AlertDetails.aspx. Pennsylvania has fewer than 53,000 facilities listed as active in ECHO.
Rhode Island’s Department of Environmental Management (DEM) has announced that it intends “to recognize the conditions and limitations that currently exist and provide flexibility and relief where needed and appropriate while still maintaining a high level of protection.” “Some of those conditions may include difficulties securing equipment, maintaining staffing levels and professional support, and conducting some monitoring activities.” DEM’s process is to consider requests on a case-by-case basis. See [http://www.dem.ri.gov/programs/media/covid19.php#bep](http://www.dem.ri.gov/programs/media/covid19.php#bep). Rhode Island has fewer than 4,200 facilities listed as active in ECHO.

On April 8, 2020, the Massachusetts Department of Environmental Protection (MassDEP) issued a “Hazardous Waste Management Guidance During State of Emergency for COVID-19 Pandemic.” Like EPA’s Temporary Policy, under the Massachusetts guidance if a facility is a generator of hazardous waste and, due to disruptions caused by the COVID-19 pandemic, is unable to transfer the waste off-site within the time periods required under RCRA to maintain its generator status, the MassDEP will still consider the facility to retain its generator status. Like EPA’s Temporary Policy, MassDEP’s policy says that the generator should continue to properly label and store such waste. The Massachusetts guidance requires an email notification, but no upfront review or approval is required. See [https://www.mass.gov/doc/guidance-on-managing-hazardous-waste-during-the-covid-19-emergency/download](https://www.mass.gov/doc/guidance-on-managing-hazardous-waste-during-the-covid-19-emergency/download). On April 17, the Massachusetts Department of Environmental Protection issued the “MassDEP COVID-19 FAQs for Public Water Suppliers.” The guidance makes recommendations on sampling. However, the guidance also correctly notes that EPA’s Temporary Policy does not offer enforcement discretion to public water systems. As noted in the MassDEP guidance, “[a]t this time, EPA is urging that all regulatory requirements be met. Failure to collect required samples will result in a violation that triggers public notice. Contact your MassDEP regional Office about the specifics your situation. MassDEP will consult with USEPA on the implementation of the newly issued federal enforcement policy.” See [https://www.mass.gov/doc/massdep-covid-19-faqs-for-public-water-suppliers­0/download](https://www.mass.gov/doc/massdep-covid-19-faqs-for-public-water-suppliers­0/download). Massachusetts has fewer than 24,100 facilities listed as active in ECHO.

The Illinois Environmental Protection Agency (IEPA) has issued a “Compliance Expectations Statement” in response to the current public health emergency. Like EPA’s Temporary Policy, the statement says “[a]ll regulated entities are expected to take every possible step to ensure ongoing compliance with environmental requirements, including all terms and conditions contained in permits, so that all regulated facilities or activities are operated and maintained in a manner safe for human health and the environment.” Referencing the governor’s stay at home order, IEPA also states that “[s]hould those current health and safety restrictions also result in an inability to comply with environmental requirements, the Agency will exercise enforcement discretion when appropriate.” “This approach is only applicable to situations brought on by, and directly related to, responses to COVID-19 that will not create or result in harm or risk to human health or the environment. One example of such a situation is difficulty in submitting routine reporting or monitoring information.” See [https://www2.illinois.gov/epatopics/Documents/Agency_Compliance_Expectations_Statement.pdf](https://www2.illinois.gov/epatopics/Documents/Agency_Compliance_Expectations_Statement.pdf). IEPA also encourages regulated entities to contact them. Illinois has fewer than 43,000 facilities listed as active in ECHO.

Virginia’s Department of Environmental Quality (DEQ) has announced that it “recognizes that the COVID-19 outbreak is affecting the ability of some regulated entities to comply with DEQ requirements, statutes, regulations and permit conditions.” DEQ also announced they “will exercise reasonable enforcement discretion within its authority when deciding whether to pursue potential violations caused by pandemic-related disruptions.” DEQ’s process includes communication with the agency and documentation and explanation of the pandemic-related events that affect their operations or
ability to comply with requirements. See [https://www.ecos.org/wp-content/uploads/2020/03/Virginia-COVID-19compliance.pdf](https://www.ecos.org/wp-content/uploads/2020/03/Virginia-COVID-19compliance.pdf). With respect to stormwater, “DEQ has advised local governments that administer Virginia’s erosion and sediment control program, some of which serve also as a Virginia stormwater authority, to exercise judgement during this pandemic and determine the best course of action for their own locality.” See [https://www.deq.virginia.gov/COVID19UpdatesinVA.aspx](https://www.deq.virginia.gov/COVID19UpdatesinVA.aspx). Virginia has fewer than 20,000 facilities listed as active in ECHO.

Wisconsin Department of Natural Resources (DNR) issued a statement that “[u]nder Gov. Evers’ Safer at Home emergency order, the DNR is committed to balancing its obligation to the law and to protect public health and the environment. We recognize that the outbreak may impact some regulated entities’ ability to comply with all statutes, rules and permit or license conditions.” DNR’s process is a case-by-case grant of regulatory flexibility. See [https://dnr.wi.gov/emergency/COVID19Compliance.html](https://dnr.wi.gov/emergency/COVID19Compliance.html). Wisconsin has fewer than 26,000 facilities listed as active in ECHO.

There are many more examples that demonstrate the measures in EPA’s Temporary Policy are consistent with state responses to this public health emergency, considering the different numbers of regulated entities. The situation continues to evolve as states respond to specific inquiries. Like state policies, EPA’s policy is temporary and will be lifted as soon as normal operations can resume, which may occur sooner in some locations than others.

During this challenging time, I am especially mindful of the close working relationships that EPA’s enforcement and compliance staff shares with their state counterparts and our shared mission of protecting public health and the environment. If you have further questions, you may contact me, or your staff may contact Carolyn Levine in the EPA’s Office of Congressional and Intergovernmental Relations at levine.carolyn@epa.gov or (202) 564-1859.

Sincerely,

Susan Parker Bodine

[Signature]

Susan Parker Bodine
June 8, 2020

Dear Members of the 116th Congress:

The year 2020 marks the 50th anniversary of EPA. As a country, we have made remarkable strides over that time ensuring a clean environment for our citizens. Enclosed is a copy of EPA’s recently released 2019 Air Quality Trends Report. This report tracks the nation’s progress in air quality through 2019. I am happy to report that in 2019 the national average concentrations for every criteria pollutant were down to some of the lowest levels on record. Additionally, since the passage of the Clean Air Act in 1970 through the end of 2019, emissions have declined by 77 percent and the U.S. economy grew by 285 percent.

Despite accusations from some in Congress to the contrary, over the past three years (2017-2019), the combined emission of criteria pollutants and their precursors dropped seven percent. Under President Trump’s leadership, EPA will continue its mission of protecting public health and the environment by ensuring the continued downward trend of pollutants in our nation’s air.

Important strides in air quality have been demonstrated for the criteria pollutants over the past three years. From 2017 to 2019, EPA reports the following drops in these pollutants: nitrogen oxide is down ten percent; fine particulate matter is down one percent; sulfur dioxide is down sixteen percent; carbon monoxide is down six percent; and volatile organic compounds are down three percent.

As a result of these falling emissions, in 2019 we saw a significant improvement in air quality. From 2018 to 2019, the number of days listed as unhealthy for sensitive groups dropped by forty percent as the amount of criteria pollutants in our air continued to fall: carbon monoxide fell ten percent; the three-month average for lead fell twenty percent, which maintains the steep decline we have seen since 2010; ozone fell six percent; nitrogen dioxide fell four percent; the 24-hour standard for large particulates fell seventeen percent; the 24-hour standard for fine particulates fell nineteen percent; and sulfur dioxide fell six percent.

These steep declines in the criteria pollutants found in our nation’s air shows our commitment to providing better air quality for all Americans. As we approach EPA’s 50th anniversary in December, we can proudly say that Americans now have significantly cleaner air, land, and water than in the past. The Trump Administration is proving that environmental protection and economic
health can go hand-in-hand. I hope that each of your offices will work collaboratively with EPA to continue the positive work of the Agency in the future.

Sincerely,

Andrew R. Wheeler
August 23, 2018

Acting Commissioner Kautter,

As the nation’s mayors, we write to encourage the issuance of timely and effective IRS guidance for the implementation of Opportunity Zone provisions in the recently enacted Tax Cuts and Jobs Act of 2017. As mayors we believe such guidance is essential to the successful formation of funds and deployment of investments consistent with the purposes of the Act, to encourage a broad array of private investments in communities with low-income residents.

We stand together as a diverse and bipartisan group of mayors representing thousands of Opportunity Zones and millions of Opportunity Zone residents who would like to convey the excitement our constituents and communities have for this promising new policy. Investors, entrepreneurs, and local leaders are activated and already putting business and community plans in place in response to Congress’ and the Administration’s commitments to implement the Opportunity Zone program.

However, we are keenly aware that the success of this policy depends on timely and effective guidelines from the Department of the Treasury and the Internal Revenue Service, especially in light of the timelines in the statute. We worry that absent timely and effective guidance that encourages broad investor participation in funds that can assemble diversified portfolios, the economic outcomes Congress and the Administration envisioned will not be achieved. Rules need to be written with the practical needs of businesses and fund managers in mind. The expectations of our constituents and communities are high but wholly appropriate given the clear intent of Congress and the basic principles underlying this new tool.
We ask you and the Secretary to take the following into consideration:

1. **The need for rules attuned to Opportunity Funds making portfolio investments into new and existing businesses.**

   Mayors all across this country took to heart the words that Senator Tim Scott, lead co-sponsor of the underlying legislation that created Opportunity Zones, wrote in a February op-ed in *USA Today* this year:

   “Under the provisions, in exchange for a lower capital gains rate that decreases based on the length of the investment, investors can put those unused dollars to work in a meaningful and productive way that will grow jobs, inspire entrepreneurship, and improve the local economy.”

   All stakeholders involved in this piece of legislation have been clear that opportunity and entrepreneurship are inseparable, and that this new provision of the tax code was intended to unlock capital for businesses seeking to take root and grow in communities that for too long have known only disinvestment and decline. Mayors are deeply attuned to the need to boost business formation and expansion in low-income areas, and we believe therein lies the most exciting promise of the Opportunity Zones policy.

   In short, in order to be successful and deliver on its promises, Opportunity Zones must be a usable tool to finance, launch, and scale new business enterprises. In that spirit, we generally concur with the technical recommendations submitted by the Opportunity Zone Coalition led by the Economic Innovation Group in its June 18 comments to you.

   Specifically, if the “substantially all” tests for Qualified Opportunity Zones (QOZ) business and property are too high, we are concerned Qualified Opportunity Fund (QOF) investment in small and medium-sized business will be curtailed, thereby undermining the core goal and potential of this new policy. We concur with previous commenters that a 70% “substantially all” test is necessary. For existing businesses, the “substantially all” use test should not be required for previous business activity or acquired property. To that end, the holding period for QOZ business property for small businesses should be treated as starting on the first day of the first taxable year starting after December 31, 2017. Again, we concur with the comments of the OZ coalition.

2. **The need for Opportunity Funds to be given sufficient time to assemble meaningful investment portfolios.**

   We also believe that QOFs should be given adequate start up time in order to work with cities to identify projects that have the most impact in providing economic opportunity to low income residents. This is particularly true for QOFs that are formed to invest in zones with high concentrations of poverty and historic patterns of dis-investment where even with the added incentives offered by Opportunity Zones, investors face high hurdles. Cities are currently developing investment projects and strategies to present to QOFs for potential investment into such communities. We are committed to using our resources to unlock private capital for these places as well, but such a development process requires sufficient lead time. We concur with
previous commenters that a minimum 18 month start-up period is needed before funds are required to meet the 90% test.

3. The need for this new tool to generate investment into affordable housing.

In addition, we agree with previous commenters that the guidance should clarify that residential real estate property qualifies as QOZ property. We believe it was the intent of Congress to include such property given the importance of housing to low-income neighborhoods and the workforce housing shortages that currently affect many communities.

4. The need to collect data on investments.

In order to properly evaluate the impact and intended effects of the Opportunity Zone program, we also believe Treasury should require QOFs to collect and submit transactional level information on the projects they invest in. The collection of data should not be onerous, but sufficient to allow researchers to reasonably measure the impact QOF investments have on low-income neighborhoods and their residents.

5. Clarity on alignment with other complementary programs.

It is important to recognize that some important projects, especially those in communities of historic dis-investment, will require additional incentives to come to fruition. It is likely that some projects will require incentives from the New Markets Tax Credit, the Low-Income Housing Tax Credit and other development incentives. We encourage Treasury to affirm that these other tax credits can be used in the financing of projects that also have QOF investment.

In sum, the nation’s mayors look forward to working with Treasury to assist in meeting the goals of the Opportunity Zone provisions in the new tax law. We believe many projects will require the active involvement of the public sector, be it in the form of local infrastructure, workforce training, local incentives, permitting and neighborhood development considerations. We ask that Treasury pay particular notice to guidance that facilitates affordable housing and investment in new and existing businesses in QOZs.

Sincerely,

Steve Benjamin
President
U.S. Conference of Mayors
Mayor of Columbia, SC

Tom Cochran
CEO and Executive Director
U.S. Conference of Mayors
CC:
Scott Dinwiddie
Associate Chief Counsel
Income Tax & Accounting, Internal Revenue Service

Dan Kowalski
Counselor to the Secretary
Department of the Treasury

Sunita Lough
Project Director
Tax Reform Implementation Office, Internal Revenue Service

Mike Novey
Associate Tax Legislative Counsel
Office of Tax Policy, Department of the Treasury

Thomas West
Tax Legislative Counsel
Office of Tax Policy, Department of the Treasury
To the Members of the House Committee on Energy & Commerce:

Thank you for holding today’s hearing entitled, *Pollution and Pandemics: COVID-19’s Disproportional Impact on Environmental Justice Communities.*

WE ACT for Environmental Justice was founded in 1988 in response to an act of environmental racism in West Harlem, NY. Since then, our organization has grown to over 16 staff members and 2 locations in New York City and Washington, D.C.

Our mission is to build healthy communities by ensuring that people of color and/or low income residents participate meaningfully in the creation of environmental health policies and practices; and there is no better time to reiterate our message to Congress than now.

COVID-19 has devastated our communities in Northern Manhattan and The Bronx. For decades, these communities of color have endured living close to heavy pollution sites such as sewage
treatment plants, highways, and industrial facilities. This history of injustice, combined with a poorly managed respiratory pandemic, has led to high rates of COVID-19 infections and deaths in New York City’s communities of color. Even more disturbing is data that indicates the COVID-19 death rate in New York City public housing is nearly double the rate of the city itself.

It is important to note that for our communities, environmental justice does not only pertain to the outdoor environment. The lack of affordable housing options in New York City due to gentrification, particularly in Northern Manhattan, present severe challenges to finding high-quality housing. Furthermore, many of our WE ACT members live in New York City Housing Authority (NYCHA) buildings. Indoor living conditions in these homes can be less than ideal. For example, persistent exposure to moisture, mold, pests, and chemicals contribute to high rates of asthma. As the threat of COVID-19 persists and Americans spend more time indoors, it is critical that Congress address not only pollution in the outdoor environment, but take steps to improve indoor living conditions nationwide.

To address these issues, the Federal Policy Office of WE ACT for Environmental Justice offers the following policy suggestions to the House Committee on Energy & Commerce.

1. WE ACT supports Congressional oversight efforts related to EPA’s temporary enforcement policy. If this policy goes unchecked, EJ communities are at greater risk of exposure to pollutants that are detrimental to public health.
2. WE ACT supports federal policies that promote the use of renewable energy, particularly in low income and/or minority communities.
3. WE ACT supports additional funding for the Low Income Home Energy Assistance Program (LIHEAP) and the Weatherization Assistance Program (WAP).
4. WE ACT asks that Congress establish a fund to invest in the elimination of gas stoves within public housing units. Using gas stoves for everyday activities such as boiling water or baking can lead to the emissions of nitrogen oxide. According to the EPA, low level exposure to NO, can cause “increased bronchial reactivity in some asthmatics;"
decreased lung function in patients with chronic obstructive pulmonary disease; [and] increased risk of respiratory infections, especially in young children.”

5. Lastly, WE ACT asks Congress to provide funding for Public Housing Authorities (PHAs) to specifically address indoor air quality conditions. This will help address the respiratory health triggers that many public housing residents must cope with each day.

Thank you for the opportunity to submit this letter for the record. We look forward to working with each Member of the House Energy & Commerce Committee to address the disproportionate impact COVID-19 has had on environmental justice communities.

Regards,

Kerene N. Tayloe, Esq.  Caitlin Buchanan
Director of Federal Legislative Affairs  Federal Policy Associate
WE ACT for Environmental Justice  WE ACT for Environmental Justice

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To the Members of the House Committee on Energy & Commerce:

Thank you for the opportunity to express my concerns at today’s hearing on COVID-19’s disproportionate impact on environmental justice communities. As many of the Committee’s members know, data continue to reveal a disproportionately higher rate of COVID-19 contractions, hospitalizations, and deaths of African American, Native American (indigenous), and Latinx people in the United States. My organization, the West End Revitalization Association (WERA), based in Mebane, North Carolina, supports policies that will address the historic health disparities that have led to these results.

However, I write today about an issue that has yet to be addressed by Congress. WERA requests that Congress conduct formal oversight and investigations into the management of hazardous and medical waste produced by the COVID-19 pandemic. The growing accumulation of COVID-19 medical, nursing home, and testing waste has yet to be publicly addressed by the Administration, and we hope the Energy & Commerce Committee will be able to shine some light on this emerging issue.

For decades, communities of color have lived near landfills and dumping sites. This is troublesome because the amount of waste associated with COVID-19 will only continue to grow. For example, LabCorp and Quest are the international leading COVID-19 diagnostic and testing corporations. The two totaled over $20-billion in assets and more than 4,200 lab sites throughout the country before the pandemic outbreak. With endorsements from the White House, their contracted diagnostics, testing, and new laboratory and research innovations have grown immensely. However, LabCorp and Quest’s necessary public health workload has resulted in a massive amount of COVID-19 public health waste that is going into landfills and incinerators without waste management guidelines.

WERA
Right to Basic Amenities

June 9, 2020

The Honorable Frank Pallone
U.S. House of Representatives
Chairman
Committee on Energy & Commerce

The Honorable Greg Walden
U.S. House of Representatives
Ranking Member
Committee on Energy & Commerce

The Honorable Paul Tonko
U.S. House of Representatives
Chairman
Subcommittee on Environment & Climate Change

The Honorable John Shimkus
U.S. House of Representatives
Ranking Member
Subcommittee on Environment & Climate Change

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It is imperative that Congress set guidelines to address these issues. Together, we must ensure that black and brown communities do not face disproportionate health impacts of COVID-19 medical waste and/or pollution.

I am also concerned about the spraying of human sewage sludge, formally known as biosolids, during the COVID-19 pandemic. For years, many informed lawmakers have been challenged with protests and lawsuits across the nation on this issue. This human sewage and animal manure carry bacteria and viruses, along with pharmaceutical chemicals, industrial proprietary chemicals, solvents, and manufacturing metals. The impact of biosolids on black and brown communities is an issue in its own right. However, as this pandemic rages on, WERA is particularly concerned about the use of sewage that potentially contains the COVID-19 virus.

WERA demands Congressional leadership on this issue. The CARES Act referenced medical supplies and research 103 times. However, The CARES Act and HEROES Act do not address COVID-19 “medical waste”, hazardous testing waste, handling, transporting, or sustainable disposal. Nor do these bills address the issue of bodily waste. We need strong science to understand the threats of the COVID-19 virus in biosolids, federal guidelines on managing this waste, and easily accessible information that can be disseminated to communities across the nation regarding this issue.

In the next few weeks, WERA will be publishing a detailed report that supports this letter. It was written based on WERA's Community Owned and Managed Research (COMR) model that has been vetted by the National Institute of Environmental Health Science (NIEHS).2

Thank you for your time and attention. I look forward to a robust discussion on these issues in the future.

Regards,

Omega Wilson
weralusa@gmail.com
West End Revitalization Association
Mebane, North Carolina

The West End Revitalization Association is a member of the Environmental Justice Leadership Forum, a group of 60+ Environmental Justice organizations convened by WE ACT for Environmental Justice. Please include Kerene Tayloe (kerene@weact.org) and Caitlin Buchanan (caitlin@weact.org) on any response to this letter.

The Honorable Andrew Wheeler  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue Northwest  
Washington, D.C. 20004

Dear Administrator Wheeler:

We are writing to request specific information on how the U.S. Environmental Protection Agency (EPA) is collecting air pollution data during the COVID-19 pandemic. Like our constituents and families across the country, we are deeply concerned over growing evidence that high levels of air pollution are significantly exacerbating certain pre-existing conditions that result in COVID-19 complications, and that long-term exposure to air pollution is a large contributing factor to an increase in fatalities. Furthermore, this pandemic is shining a light on the disproportionate and cumulative impacts pollution has on low income and communities of color, who are experiencing staggering rates of mortality from COVID-19 and often lack access to healthcare.

Due to these concerns, it is critical that the EPA do everything it can to ensure that all air-monitoring networks and air monitors are operating. Data generated from these monitors is critical to informing public health protections in general and especially during a global health pandemic.

In order to understand how EPA is guaranteeing the public has the information they need to understand what public health risks they face, we request information from EPA regarding:

1. Whether any air monitors operated or overseen by EPA or used for determining NAAQS or other Clean Air Act compliance are currently shut off, broken, in need of maintenance, inoperable, or otherwise not making air monitoring results available. This includes any air toxics monitors, or any ambient air quality monitors used for NAAQS compliance. If any such air monitors are shut off, broken, in need of maintenance, inoperable, or if monitoring results for any such monitors are not otherwise available, please provide timetables and EPA’s plans for restoring them.

2. Whether any air toxics monitors or ambient air quality monitors used for NAAQS compliance were offline or shut down for any period of time since January 31, 2020, the day the Secretary of Health and Human Services declared COVID-19 a public health crisis.
emergency. If they were shut down, please detail the specific dates these monitors were not operated and whether they are now operational.

3. Whether EPA has plans this calendar year (2020) to increase the number of ambient or fenceline air toxics monitors or ambient air quality monitors used for NAAQS compliance and where these monitors will be located.

4. Whether EPA has plans this calendar year (2020) to implement fenceline monitoring near any sources of ethylene oxide, and if so where.

5. What actions, if any, EPA plans to take to protect communities where an air monitor shows unhealthy air during the pandemic.

EPA’s job is to protect the air we breathe, and that job could not be more important than during a global health pandemic. As a result, we are requesting data showing that the agency is taking the necessary steps to combat both air pollution and its impacts on human health.

Please provide answers to these questions and records responsive to this request by May 29, 2020. If you have any questions, please feel free to have your staff reach out to Sara Jordan (Sara.Jordan@mail.house.gov) or Radha Adhar (Radha.Adhar@duckworth.senate.gov).

Thank you for your attention to this matter.

Sincerely,

Tammy Duckworth
U.S. Senator

Lisa Blunt Rochester
Member of Congress

Thomas R. Carper
U.S. Senator

Eleanor Holmes Norton
Member of Congress

Chris Van Hollen
U.S. Senator

Gregory W. Meeks
Member of Congress

Edward J. Markey
U.S. Senator

Debbie Dingell
Member of Congress
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The Honorable Yvette Clarke (D-NY)

The past few weeks have taught us that transparency and accountability are critical to protecting marginalized communities. We’ve seen, for example, how qualified immunity for police officers has contributed to a system overrun with misconduct and brutality.

1. Do you see a parallel need for accountability for polluters? Why is it important to hold polluters accountable for the damages they cause?

RESPONSE:
Absolutely there is a parallel need for accountability for polluters. Without holding polluters accountable, it is the communities that pay the price as the price for any action always has to be paid by someone. If I ran over my neighbors mailbox with my car, it would not be acceptable for me to shrug my shoulders and say, “That’s on you, man!” I would be responsible for paying for the mailbox. Similarly, if a polluter poisons the water, they have to clean it up. And if a polluter poisons the water and someone gets sick as a result, they have to take responsibility for paying “damages” for that offense.

2. The fossil fuel industry has sought immunity from lawsuits seeking to hold them accountable for climate damages. What are the consequences for environmental justice communities if their access to the courts is blocked? Doesn’t justice include the right to hold responsible parties accountable?

RESPONSE:
This is what laws are supposed to be for. Though courts should be the last resort, their very purpose is to uphold the rule of law. The consequence would be the perpetuation of the status quo. Because of the unholy marriage of money and politics, legislative and regulatory handles are grossly insufficient. As such, we have the relatively unfettered pollution that harms the health and wellbeing of black, indigenous, people of color and low income communities with impunity. And the courts are too often our only recourse. To deny communities access to this avenue is the very definition of civil rights violations and the very antithesis of liberty and justice for all.
1. This May, the Chicago Tribune’s front-page headline read “Many cities around the globe saw cleaner air after being shut down for COVID-19. But not Chicago.” Conversely, various U.S. cities have experienced temporary relief from poor air quality as a result of COVID-19 related stay-at-home orders. What factors make Chicago and cities alike the exception to this rule?

As the article discussed, there are several factors that may have contributed to the fluctuation of air quality among cities, such as Chicago, amid the pandemic. The types of industry that are most prominent in regions, in combination with economic pressures, can serve as driving factors. Chicago, like several other cities that serve as transportation hubs, may not reap the same air quality benefits as other communities due to existing transportation corridors, which involve the use of freight railroad transportation. Studies have shown that freight railyard systems have the ability to emit tons of diesel emission pollution on a yearly basis, which can significantly impact air quality. Existing manufacturing industries and their emissions, including particular matter, may also contribute to the inability of urban regions to experience better air quality due to additional economic pressures to produce goods that stem from the COVID-19 pandemic.

2. Executive Order 12898 directs federal agencies to make achieving environmental justices apart of their missions to reduce the impact of activities on minority and low-income populations.

   a. In what ways has the Department of Energy implemented this order to your satisfaction?

   In previous years, the Department of Energy has worked closely with other agencies to spearhead funding and programming that has directly served lower wealth and communities of color. First, the department has been instrumental in providing necessary funds to help support lower wealth residents weatherize their homes, which can significantly provide financial relief to households suffering from high energy bills due to energy inefficient housing. Second, the implementation of the Emergency Efficiency and Conservation Block Grant Program was instrumental in providing
$3.2 billion to local governments, Indigenous tribes and territories to improve energy efficiency, which lowered energy bills and simultaneously reduced carbon emissions.

b. In your opinion, how might the Department of Energy implement the Executive Order further?

There are several arenas in which the Department of Energy can bolster its existing programming to further address directives from Executive Order 12898. First, the department should reassess metrics associated with eligibility requirements for services and programs. In addition to income qualifications, requirements associated with the condition of the home can impede residents that need assistance the most from receiving weatherization assistance. Second, programs, such as the Emergency Efficiency and Conservation Block Grant Program, should be reinstated because of its ability to not only provide needed assistance to households, but because programs like this have the capability of creating jobs. By reinstating and fully funding the Emergency Efficiency and Conservation Block Grant Program, the department has the ability to create an average of 35,000 jobs over the next five years.

The Honorable Yvette Clarke (D-NY)

The past few weeks have taught us that transparency and accountability are critical to protecting marginalized communities. We’ve seen, for example, how qualified immunity for police officers has contributed to a system overrun with misconduct and brutality.

1. Do you see a parallel need for accountability for polluters? Why is it important to hold polluters accountable for the damages they cause?

Yes, there are clear parallels, and just as we are calling for policy changes that hold police officers accountable, we must also hold polluting industries accountable for their disproportionate impact on communities of color. Throughout our Environmental Justice Roundtables, frontline leaders have voiced their concerns on our government’s lack of accountability and regulatory oversight when it comes to dealing with polluting industries in their communities. By allowing polluters to simply pay fines to resume business as usual or by allowing industries to regulate themselves, we are undermining the health of communities and their ability to thrive.

A lack of accountability has provoked severe health disparities among frontline communities and these disparities are evident when assessing the disproportionate impact of the coronavirus on people of color. Due to elevated exposure to toxic pollutants, frontline communities suffer from chronic medical conditions: heart, liver, kidney and lung disease, as well as cancers. These conditions make them susceptible to health-related complications from COVID-19. According to the Centers for Disease Control and Prevention, Indigenous people and African-Americans are 5 times more likely to be
hospitalized or die from coronavirus when compared to non-Hispanic, white Americans. And Latinxs are 4 times more likely.

We must hold polluting industries accountable to ensure the safety and security of frontline communities and their ability to overcome future public health crisis.

2. The fossil fuel industry has sought immunity from lawsuits seeking to hold them accountable for climate damages. What are the consequences for environmental justice communities if their access to the courts is blocked? Doesn’t justice include the right to hold responsible parties accountable?

By allowing the fossil fuel industry to have immunity from lawsuits, we are reinforcing the perception that Black and Brown bodies don’t matter. These actions fuel the mistrust that has developed between environmental justice communities and our democratic way of governance. In many cases, litigation is the last line of defense between communities and polluting industries. Therefore, litigation must continue to be an option as we tackle climate change impacts and find solutions to support vulnerable populations.

Furthermore, as evidence continues to mount surrounding the connection between fossil fuel emissions, rising temperatures, and human health conditions, litigation will be an important tool to reduce emissions and gather resources. In addition to holding industries accountable, we must also mobilize resources to ensure that frontline communities are able to withstand climate change impacts, such as more frequent and severe weather storms, extreme heat, and flooding.
Dear Mr. Hawkins:

Thank you for appearing before the Subcommittee on Environment and Climate Change on June 9, 2020, at the hearing entitled, “Pollution and Pandemics: COVID-19’s Disproportionate Impact on Environmental Justice Communities.” We appreciate the time and effort you gave as a witness before the Subcommittee.

Pursuant to Rule 3 of the Committee on Energy and Commerce, Members are permitted to submit additional questions to the witnesses for their responses, which will be included in the hearing record. Attached are questions directed to you from a Member of the Committee. In preparing your answers to these questions, please address your responses to the Member asking the question using the Word document provided with this letter.

To facilitate the publication of the hearing record, please submit your responses to these questions by no later than the close of business on Monday, July 20, 2020. As previously noted, your responses to the questions in this letter will be included in the hearing record. Your written responses should be transmitted by email in the Word document provided to Adam Fischer, Policy Analyst with the Committee staff, at adam.fischer@mail.house.gov. You do not need to send a paper copy of your response to the Committee. Using the Word document provided for submitting your responses will also help maintain the proper format for incorporating your answers into the hearing record.
Thank you for your prompt attention to this request. If you need additional information or have other questions, please have your staff contact Mr. Fischer at (202) 225-2927.

Sincerely,

Frank Pallone, Jr.
Chairman

Attachment

cc: The Honorable Greg Walden
    Ranking Member
    Committee on Energy and Commerce

    The Honorable Paul D. Tonko
    Chairman
    Subcommittee on Environment and Climate Change

    The Honorable John Shimkus
    Ranking Member
    Subcommittee on Environment and Climate Change

[Mr. Hawkins did not answer submitted questions for the record by the time of publication.]
1. You make reference in your testimony to some measures that Congress can make to improve the performance of opportunity zones:
   a. Would you explain some of the improvements to program help it serve people most in need?
   b. When it comes to the current program how flexible is it to meet the needs of communities, be they rural or urban?

2. Can you describe Community Development Financial Institutions (CDFIs) and how they may play a role in recovering from the COVID-19 economic crisis?
   a. What role can opportunity zone funding have with these programs?
   b. Are there other measures through which opportunity zone funding can be used to help underserved communities recover?

3. In November this year we heard testimony describing the role of EPA’s technical support programs, brownfield grants, department of Commerce economic development programs to provide the up-front preparation for poor and deindustrialized areas need to kick start economic development. This has worked to good success in West Virginia’s pan handle and deindustrialized regions of your state, Ohio.
   a. First, what is new about opportunity zones that enables it to have a more lasting impact?
   b. Can you describe how local communities are taking advantage of all these tools available to them? Do opportunity zone investors help get access to EPA technical assistance, for example?
   c. What more can be done to ensure community leaders know how to take advantage of all these tools?