

THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S PROPOSED FISCAL YEAR 2024 BUDGET

HEARING BEFORE THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

MARCH 22, 2023

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COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

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THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S PROPOSED FISCAL YEAR 2024 BUDGET

WEDNESDAY, MARCH 22, 2023

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The Committee met, pursuant to notice, at 10:04 a.m. in room 406, Dirksen Senate Office Building, Hon. Thomas R. Carper (Chairman of the Committee) presiding.

Present: Senators Carper, Capito, Cardin, Whitehouse, Markey, Kelly, Padilla, Cramer, Lummis, Boozman, Wicker, Sullivan, Mullin, and Ricketts.

OPENING STATEMENT OF HON. THOMAS R. CARPER, U.S. SENATOR FROM THE STATE OF DELAWARE

Senator CARPER. Good morning, everyone.

A familiar face sits before us. Welcome.

I am going to ask you to introduce, who is the fellow sitting next to you, Mr. Regan, on your left?

Mr. REGAN. Our EPA Budget Director.

Senator CARPER. What is he doing here?

[Laughter.]

Senator CARPER. We will see if his lips move when you speak.

Good morning, and I am pleased to call this hearing to order and join Senator Capito in welcoming back Administrator Michael Regan before our Committee to discuss President Biden's fiscal year 2024 budget proposal for the Environmental Protection Agency.

I think it was about 2 years or so ago that you sat pretty much right here. I am trying to remember who was sitting right behind you in the audience, right behind you, he was a young guy, looked to be about 8 or 9 years old. Was his name Matthew?

Mr. REGAN. The superstar of the Regan family, Matthew.

Senator CARPER. I want to just say, we have a couple of new members on our team, some of you will recall, he was the best behaved 8 or 9 year old kid I have ever seen in my life. We said later on, we thought you probably had him medicated, to be able to behave that well.

Mr. REGAN. No, just a promise of a lot of Pokémon cards.

[Laughter.]

Senator CARPER. Whatever it takes.

We are happy to welcome you back today to discuss President Biden's fiscal year 2024 budget proposal for the Environmental Protection Agency. Over the years, I have often said that budgets are about priorities. Or as the late Jim Frock once said, anybody ever heard of Jim Frock? Probably not. But you have heard the saying, "Don't tell me where your priorities are, show me where you spend your money, and I will tell you what they are." Jim Frock.

Rest in peace, Jim Frock, wherever you are. You are gone, but not forgotten.

Budget proposals are an opportunity for our Presidents, Democrats, Republicans, and others as well, to lay out a forward looking version for the people of our country. I believe that President Biden's \$12 billion budget request for EPA, after years of starving the agency, starving the agency for years, prioritizes now the needs of the American people.

At this moment in history, Americans want a well resourced EPA that takes action to protect our health and our environment, especially when tragic accidents occur like the recent Norfolk Southern train derailment in East Palestine, Ohio.

Communities throughout the U.S. that are overburdened by legacy pollution want a well resourced EPA that works to clean up the air they breathe, the water they drink, as well as the contaminated land, which if cleaned up, could be used for economic development and job creation.

Those of us who are concerned about the future of our planet, and that is just about all of us, want a well resourced EPA that takes strong action to combat the greatest threat we face today on this planet, and that is our climate crisis, while at the same time creating millions of new jobs in the process.

Earlier this week, the United Nations Intergovernmental Panel on Climate Change released its latest report underscoring the urgent need to reduce greenhouse gas emissions. As many of us here know today, climate change is already impacting communities across our country, large and small.

According to the National Oceanic and Atmospheric Administration, extreme weather fueled by climate change in the form of hurricanes, flooding, drought, and wildfires cost American taxpayers nearly \$170 billion in 2022. I said \$170 billion in 2022. That is billion with a B. And to put that figure into perspective, that is about 14 times the size of your budget, Mr. Regan, at EPA.

Fortunately, last Congress we worked to pass the American Rescue Plan, the Bipartisan Infrastructure Law and the Inflation Reduction Act. My thanks to everyone who worked on one or more of those bills. In doing so, we have directed EPA to do more than ever before to tackle climate change, address pollution, and protect our health in a way that supports economic growth.

I am a recovering Governor, and we have a couple of others here who are recovering Governors. I am always looking for how do we support economic growth and job creation. It is never far from my mind, and it is especially here in my mind today. But how, you may ask.

Well, we have tasked EPA with overseeing historic investments in clean drinking water free of contaminants like PFAS and lead.

We have also invested in EPA's work to clean up legacy pollution from contaminated urban brownfields, abandoned wells leaking methane, acid mines leaching heavy metals, and more. And we have empowered EPA to help build a clean energy economy, made here in America, made here in America with good paying jobs and lower energy costs for households across our Nation.

The President's budget would build on our legislative progress by providing EPA with the resources it needs to implement these new programs that Congress has created. Among them are the Clean School Bus Program, the Methane Emission Reduction Program, the Greenhouse Gas Reduction Fund, and new investments in wastewater facilities, all while continuing the important work of carrying out our Nation's bedrock environmental laws.

Make no mistake, the agency truly needs these investments. It is no secret that EPA has not always received the resources, at least in the last decade or so, the resources required to be successful. In recent years, flat budgets and staffing shortages have severely undermined the agency's ability to do its job in many respects.

As EPA's responsibilities and workload continue to grow in the face of climate change and other human caused environmental disasters, it should come as no surprise that the agency is overburdened.

That is especially true when we look at the agency's work force. EPA's current number of staff, that is about 15,000, is well below the range of 16,000 to 18,000 that the agency had from 1990 through 2012, below the range we had in 2012. For years, we have asked EPA to do more with less, much less.

Fortunately, instead of proposing to slash the agency's budget further as the previous Administration did, President Biden's budget proposal would increase the EPA's budget by roughly 19 percent in fiscal year 2024 as compared to the previous year. It is really a leveling up to where we ought to be if we had not cut the budget so much. The increase in funding under the President's budget for EPA is necessary as the agency works to rebuild itself and address emerging and ongoing challenges.

It is also worth noting that the President's budget would add nearly 2,000 full time career staff at EPA. The staff levels have either been cut in recent years or actually frozen. At the same time, your workload has increased dramatically.

These additional staff would make a real difference in the agency's ability to do things like manage toxic chemicals under the Toxic Substances Control Act, which we passed by a big bipartisan vote in this Committee a number of years ago. Still it is not being fully implemented because of the lack of staff at EPA to do that.

Other things that need to be done is to convert contaminated brownfields sites. Almost everybody on this Committee can think of brownfields in our States that are contaminated and could be turned into areas for economic opportunity. Also, we need to replace a bunch of lead pipes throughout our country, and probably throughout every State that is represented on this Committee.

I am also pleased that EPA's budget would make good on President Biden's Justice40 initiative and ensure that all Americans, in-

cluding those in historically overlooked and underserved communities, receive their fair share of Federal assistance from EPA.

As a co-founder of the Senate Environmental Justice Caucus, I am particularly grateful that this budget focuses on the needs of our most vulnerable, communities of color, as well as low income and American Indian and Alaska Native communities. I call them the least of these.

That is something I know that you, Mr. Regan, continue to prioritize as well, along with the folks you lead. You should know that many members of this panel, including me, support your efforts to advance environmental justice. Indeed, we have a moral obligation to do so.

Let me close by saying that I believe President's Biden's budget represents a brighter vision of the future for our Nation, all of our Nation, from coast to coast, one that delivers on the promise of cleaner air and cleaner water in every ZIP code and better ensures that every American has an opportunity to live up to their God given potential.

Administrator Regan, I know we are heading in that direction thanks to your outstanding leadership at EPA and the work of the team that you are privileged to lead during an especially challenging time in our Nation's history. We look forward to hearing your testimony today and to the responses you will give to the questions that we will be posing.

Before I do that, I am delighted to turn to our Ranking Member, Senator Capito, for her opening remarks.

Senator Capito.

**OPENING STATEMENT OF HON. SHELLEY MOORE CAPITO,
U.S. SENATOR FROM THE STATE OF WEST VIRGINIA**

Senator CAPITO. Thank you, Mr. Chairman, and thank you, Administrator Regan for being here. It is really good to see you.

While we both know we don't always agree on policies, I really appreciate your willingness to meet and talk and how seriously you take your commitment to testify. So I am very appreciative.

A lot has happened since you appeared here for last year's hearing. The EPA has received enormous funds, enormous amounts of funding. In addition to the annual appropriations for fiscal year 2023, the EPA received an astounding \$41.5 billion in additional funding as part of the so called Inflation Reduction Act, which many of us refer to as the reckless tax and spending spree. For context, that is four times the appropriations that EPA would receive in a typical year.

As part of the funding, EPA received hundreds of millions of dollars specifically for administrative expenses, which could include hiring personnel for implementation of the IRA programs. With these eye watering numbers, I was quite surprised to see in the fiscal year 2024 proposal that EPA requests another \$1.9 billion increase over last year's annual appropriation, including more money explicitly for the IRA program implementation.

Across the country, with inflation, high energy prices, grocery prices, and rising interest rates, Americans are having to do more with less. But EPA got more, and still wants more.

I am particularly troubled by the largesse of this request because I am not convinced that EPA is using the resources it already has effectively. I recently received a response from the Nuclear Regulatory Commission that had some eye popping statistics about current office attendance and work culture. I would like to get similar answers from you today about the EPA work force.

Last year when you testified before the Committee we discussed EPA employees, when would they be back to work in person, and you said, "All employees are scheduled to be back by the last period in April 2022." This year's budget proposal suggests, however, that back in the office does not mean actually present in the office.

We are heating and cooling massive, and nearly uninhabited buildings, 3 years after the pandemic started. Now with the public health emergency over I want to understand the agency's current work practices and how we can avoid some of this energy waste to the benefit of the environment and the taxpayer.

We need to do this before we seriously consider any more administrative outlays, including the EPA's desire to hire approximately 2,000 additional FTEs. The need for so many additional workers is at best questionable given recent EPA announcements about how it is going to manage large buckets of money appropriated by the IRA.

The EPA is sitting on more money than it has had in its history, and I find it worrying that its method for handling some of these particularly significant new pots of money is to push implementation to groups outside the agency, and beyond traditional accountability and oversight. Take for instance the \$3 billion Climate and Environmental Justice Block Grant program from the IRA. The EPA, with that program, receives a 7 percent administrative expenses set aside. So that is \$210 million, a lot of money, even here in Washington.

According to the EPA's plans for initial awards under the program, all your staff is going to do is pick a limited number of third party grantees outside the agency, which can then can take another 20 percent to administer and distribute grants to their grantees. That does not sound like an efficient way to use taxpayer dollars to me.

Unless current plans for the program change, the EPA will get \$210 million for doing not as much as I am sure the vision of those who voted for the IRA thought. These investments, which could be partisan, and could be environmentally meaningless, I guess that is in the eye of the beholder, will then have more than a quarter of those dollars that are going to be blown on administrative costs before it even gets started. So I would like to discuss my concerns today about the way that you are prioritizing certain regulatory actions.

The agency spent a lot of time and resources completely rewriting and finalizing a broad, new Waters of the United States definition, but we are waiting for the Supreme Court to make a ruling in a pending case. That threw yet another definition of WOTUS into effect, and now that definition has already been stayed in, I believe just two States, but maybe more. The EPA could have minimized regulatory uncertainty by just waiting for the Supreme Court ruling.

During that same time, the Biden EPA took 2 years, 2 years, to develop a proposed drinking water standard, but believe me I am happy you finally did, for PFOA and PFOS. It concerns me that the EPA Water office could have been prioritizing PFAS instead of writing the WOTUS rule, which is going to have to be changed in all likelihood after the Supreme Court makes its decision this summer.

Meanwhile, the agency continues to go full bore on a regulatory agenda targeting the energy and power sectors, one that is going to hurt my State's economy and further raise energy bills. The EPA continues to push forward with its so called EGU, or Electric Generating Unit, Strategy.

As part of that strategy, the EPA recently finalized a water rule targeting coal plants called the ELG rule. It says the ELG rule is "aligned with other rules so that we can help the industry be very thoughtful about long term investments for all the regulations that are coming out of the agency." That is kind of code word for me for how are you going to shut your plants down.

You went on to say, "not aimed at driving a specific outcome in terms of investment strategies." But I would disagree. I think it is clear what the Administration is doing: An accelerated transition from coal and natural gas seems to be the playbook here. The Biden administration is calling the shots that were started during the Obama administration's war on coal.

Earlier this month, Mr. Goffman and I talked about the EPA modeling, and I know you and I talked about this actually at breakfast the other day, that the IRA is a gut punch to the coal and gas industry. The EPA modeling projects that the IRA could lead to transformative impacts on the power sector, including a dramatic decrease in not just generation but also capacity. We see that in the projections generated from the EPA itself.

So I am concerned about potential job loss in Appalachia, all across the country, in the natural gas industry, and I am very concerned about what we see coming out.

But today we are going to talk about the budget and other things. And I am worried about the oversight in terms of the Inflation Reduction Act since it looks like you are sort of outsourcing some of the oversight to these subgrantees. And I wonder what kind of oversight we would have there, not to mention the 27 percent in administrative costs that are going to be dedicated toward engaging those dollars. Thank you.

Senator CARPER. Thanks, Senator Capito. A tale of two cities here in the Environment and Public Works Committee today.

I want to reiterate something I said in my opening statement. Earlier this week, the United Nations Intergovernmental Panel on Climate Change released its latest report underscoring the urgent need to reduce greenhouse gas emissions. It said it is actually getting worse faster rather than slower, and imparted a sense of urgency.

Someday, 10, 20, 30 years from now, folks are going to gather here in this room, serving on this Committee, and they are going to either say, what were they thinking, what were we thinking, as we considered this budget and the priorities of this Administration and our country, or they are going to say, thank God they took

some steps that needed to be taken to make sure that our children and our grandchildren have a future.

My wife and I have three sons, and we have four grandchildren. I want to make sure that they have a planet to grow up on. I want to make sure they have a planet to grow old on. The work that we are doing here today is really with that in mind. Almost all of us have kids or grandchildren. I think we want the same thing for them.

With that in mind, Mr. Regan, thanks for joining us. Thanks for your statement and for being with us today. We will begin with hearing from you. Go right ahead. Thank you.

**STATEMENT OF HON. MICHAEL S. REGAN,
ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY**

Mr. REGAN. Thank you, Chairman Carper. I want to thank Ranking Member Capito and members of this Committee.

I really do appreciate the opportunity to appear before you today to discuss the necessary vision laid out in the United States Environmental Protection Agency's proposed fiscal year 2024 budget request.

In this budget request, we lay out an ambitious and transformative plan for EPA with the goal of building a healthier, more prosperous Nation while ensuring global competitiveness, energy independence, and security.

President Biden's proposed fiscal year 2024 budget request for EPA provides \$12.1 billion to advance key priorities including protecting air quality, upgrading our Nation's aging water infrastructure, tackling the climate crisis, and rebuilding the core functions in our agency. Over the last year, we have made significant progress toward these goals. I am proud of the foundation we have laid and the partnerships that we have developed to underpin the successes.

But there is still much more work to do to ensure that all of our children have safe, healthy places to live, learn, and play, to build a stronger, more sustainable economy, and to advance American innovation and ingenuity. Simply put, investing in EPA is investing in America.

Across the country, poor air quality still affects millions of people, perpetuating harmful health and economic impacts. For fiscal year 2024, the agency will protect our air quality by cutting emissions from ozone forming pollutants, particulate matter, and air toxics.

The President's budget includes \$1.4 billion to improve air quality and to set standards that reduce pollution from mobile and stationary sources. EPA's work to set these standards provides certainty to the industry, builds on advances in technology, and reinforces market movement toward a cleaner energy system that provides reliable and affordable energy.

A thriving economy also requires clean and safe water for everyone. Although progress has been made, many still lack access to healthy water, face inadequate wastewater infrastructure, and suffer from the effects of lead pipes. America's water systems are also facing new challenges, including cybersecurity threats, climate change, and emerging contaminants such as PFAS.

The budget proposes more than \$4 billion to upgrade drinking water and wastewater infrastructure nationwide, with a focus on underserved communities. Over the last year, I have had the privilege of traveling across the country from Jackson, Mississippi, to East Palestine, Ohio. I have visited communities in your States and seen first hand the environmental and public health challenges that many of your constituents continue to face.

I have spoken to families who have been sickened by the air they breathe; I have met with people who live with toxic waste in their backyards. I have seen conditions that are simply unacceptable in the United States of America.

From investing in our Nation's climate resilience to cleaning up contaminated land and water, there is no shortage of important work to be done. Members of this Committee, I assure you that EPA is up for the task. We are eager to work with all of you to deliver for our fellow Americans and to secure our Nation's global competitiveness.

But we do need your support. Both the urgency and economic opportunity presented by climate change require that we leave no stone unturned. We know the development, implementation, and enforcement of environmental laws, regulations, and policies has not always ensured the fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income.

In fiscal year 2024, EPA requests more than \$375 million and 265 FTE for the Environmental Justice Program. The funding will help to expand support for community based organizations, indigenous organizations, Tribes, States, local government, and other territorial governments, so that they can identify and develop solutions to their environmental justice concerns through multi-partner collaborations.

The fiscal year 2024 President's budget positions the EPA to create durable environmental policy, investing in America and setting our Nation on a path to win the 21st century. It will allow for us to meet the pressing needs faced by millions of Americans and fundamentally improve people's lives for the better.

Thank you all for the opportunity to be here today and to submit this testimony for the record. I look forward to our continued partnerships to achieve these ambitious yet necessary goals. I welcome all of your questions. Thank you again.

[The prepared statement of Mr. Regan follows:]

**TESTIMONY OF
MICHAEL S. REGAN**

**ADMINISTRATOR
U.S. ENVIRONMENTAL PROTECTION AGENCY**

**BEFORE THE
U.S. SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS**

March 22, 2023

Thank you, Chairman Carper, Ranking Member Capito, and members of the Committee, I appreciate the opportunity to appear before you today to discuss the bold vision laid out in the U.S. Environmental Protection Agency's (EPA) proposed Fiscal Year (FY) 2024 Budget request. Before turning to FY 2024, I also want to express my appreciation for the targeted increases included in the FY 2023 enacted appropriation and all of the work that went into accomplishing this year's budget. Building off that foundation, in our FY 2024 Budget request, we lay out an ambitious plan for EPA that provides the resources needed to advance a cleaner, healthier, and more equitable Nation where all people have equal access to safe and clean water, air, and communities.

The FY 2024 President's Budget Request

The President's FY 2024 Budget for EPA provides \$12.1 billion to advance the key priorities outlined in the *FY 2022-FY 2026 EPA Strategic Plan*, including tackling the climate crisis, delivering environmental justice, protecting air quality, upgrading the Nation's aging water infrastructure, and rebuilding core functions at EPA. EPA is committed to providing robust support to our tribal, state, and local partners through grants that directly reach these communities. Nearly half of our Budget, over \$5.8 billion, is to support state, tribal and local partners to advance the critical mission we can only accomplish by working together. The Budget requests approximately \$1.2 billion to support implementation of grant programs authorized in the Drinking Water and Wastewater Infrastructure Act (DWWIA). The Budget also includes more than 1,900 additional Full Time Equivalents (FTE) across program and regional offices, bringing EPA back to 17,000 FTE, to ensure EPA has the capacity to protect human health and the environment across the Nation.

Tackling the Climate Crisis

In FY 2024 EPA will continue to prioritize climate mitigation and adaptation, which are both essential components of the strategy to reduce the impacts of climate change. EPA's budget will support federal partners, tribal governments, states, territories, local governments, environmental justice organizations, community groups, and businesses to address climate change. EPA will provide an additional \$45 million and 26 FTE for climate adaptation efforts to strengthen the adaptive capacity of tribes, states, territories, local governments, communities, and businesses. In addition, EPA also will provide \$400 million in grants, an increase of \$151 million, to help expand the efforts of state and local air pollution control agencies to implement the Clean Air Act. We

will leverage an additional \$65 million to implement the American Innovation in Manufacturing Act to continue phasing out hydrofluorocarbons (HFCs). EPA will direct an additional \$37 million to improve knowledge of the impacts of climate change on human health and the environment through our research programs.

Enforcing Environmental Laws

Enforcing and ensuring compliance of our Nation's environmental laws is central to achieving EPA's mission. EPA holds, and will continue to hold, bad actors accountable for their violations, with a particular focus on communities with multiple pollution sources. This Budget invests \$246 million for civil enforcement efforts, such as increasing enforcement efforts in communities with high pollution exposure and preventing the illegal importation and use of hydrofluorocarbons in the United States. The request also includes \$165 million for compliance monitoring and additional resources to implement a coal combustion residuals compliance program. The Budget also directs \$75 million for criminal enforcement efforts to pursue investigations of the most egregious environmental cases and to support a specialized Criminal Enforcement Initiative focused on addressing environmental justice issues in partnership with the Department of Justice (DOJ).

Ensuring Clean and Healthy Air for All Communities

Poor air quality still affects millions of people across the country, perpetuating harmful short- and long-term health and quality of life impacts. In FY 2024, EPA will improve air quality for communities by reducing emissions of ozone-forming pollutants, particulate matter, and air toxics. The President's Budget includes \$1.4 billion to improve air quality and reducing localized pollution, reducing exposure to radiation, and improving indoor air for communities across the country. The Budget dedicates \$180 million to the development and implementation of national emission standards to reduce air pollution from vehicles, engines, and fuels. EPA's work to set these standards provides certainty to industry, builds on advances in technology, and reinforces market movement towards a cleaner energy system that provides reliable and affordable energy. The Budget provides \$150 million, a \$50 million increase above the 2023 level, to expand the availability of Diesel Emissions Reduction Act (DERA) grants and rebates.

The Budget includes \$367 million to assist tribal, state, and local air pollution control agencies in the development, implementation, and evaluation of programs for the National Ambient Air Quality Standards (NAAQS) and to establish standards for reducing air toxics. EPA will continue to build on its historic progress in protecting human health and the environment from the harmful effects of air pollution and work to assure clean air for all Americans, with a particular focus on those in underserved and overburdened communities.

Achieving Clean and Safe Water for All Communities

Clean and safe water is a foundation for healthy communities and a thriving economy, and EPA is committed to ensuring clean and safe water for all. Although immense progress has been made across our Nation, many still lack access to safe and clean water and suffer the effects of aging infrastructure and legacy lead pipes. America's water systems also are facing new challenges, including cybersecurity threats, climate change, and emerging contaminants of concern, such as PFAS.

In FY 2024, EPA will continue our work with federal, tribal, state, and nongovernmental partners to advance water quality science, provide clean and safe water for all communities, and protect our Nation's waterbodies from degradation. The Budget provides more than \$4 billion for water infrastructure, an increase of \$1 billion over the 2023 enacted level. The Budget funds all of the authorizations in the original Drinking Water and Wastewater Infrastructure Act of 2021 and maintains funding for EPA's State Revolving Funds (SRF) at the total 2023 enacted level, which complements funds provided for water infrastructure programs in the Bipartisan Infrastructure Law. To further the President's goal of replacing all lead pipes within the next decade, the Budget proposes \$219 million for two grants dedicated to remediating lead contamination in water—Reducing Lead in Drinking Water and Lead Testing in Schools.

Also included is \$80 million to support the Water Infrastructure Finance and Innovation Act (WIFIA) loan program. As of February 2023, EPA has issued 100 WIFIA loans to communities across the country totaling over \$17 billion in credit assistance to help finance more than \$36 billion for water infrastructure projects. WIFIA loans for these projects have saved communities nearly \$5 billion, which can be used for additional infrastructure investment and to keep rates affordable for water system users. These WIFIA-financed projects have created over 123,000 jobs and benefited more than 50 million people, demonstrating that WIFIA credit assistance is an effective tool to help address a variety of water infrastructure needs to support communities nationwide.

In FY 2024, EPA will continue to work across environmental programs to advance agency efforts to tackle Per- and Polyfluoroalkyl Substances (PFAS) pollution. As part of the President's commitment to tackling PFAS pollution and EPA's PFAS Strategic Roadmap, the FY 2024 Budget provides EPA with the resources to increase its understanding of PFAS and their human health and ecological effects; restrict PFAS use to prevent new PFAS pollution from entering the air, land, water, and remediate PFAS that have been released into the environment. The FY 2024 Budget provides \$279 million for the Section 106 Grants Program, which funds state, interstate, and tribal water pollution control programs, and is a critical funding source to establish, expand, and implement water quality programs to protect and restore water resources. More than \$60 million in additional funding is provided across the budget to accelerate progress on EPA's PFAS Strategic Roadmap, and enable EPA to move more quickly on policy, regulatory, and enforcement actions across multiple statutory authorities. EPA will continue its efforts in FY 2024 to develop analytical methods, drinking water health advisories, toxicity values, effluent limitation guidelines, as well as risk communication and other tools to support states, tribes, and localities in managing PFAS risks in their communities.

From the Great Lakes to the Chesapeake Bay, from Lake Pontchartrain to the Puget Sound, the United States is home to water bodies of ecological, cultural, and economic significance. The Budget invests \$682 million to continue strong support for EPA's Geographic Water Programs to protect and restore these water bodies of special ecological and economic importance to the Nation. EPA's Geographic Programs deliver technical and financial assistance to solve problems and support healthy resilient ecosystems and to maintain, restore, and improve water quality, which yields environmental, economic, and recreational benefits to their communities.

Safeguarding and Revitalizing Communities

Preventing and cleaning up environmental pollution that harms communities and poses a risk to public health and safety continue to be a top priority for the Administration. The FY 2024 Budget enables EPA to collaborate with Tribal, state, and local partners to improve the livelihood of all residents of the United States by addressing contaminated sites, including Superfund, brownfields, leaking underground storage tanks, and other waste sites and restoring them to productive use.

An estimated \$2.5 billion in Superfund tax receipts that will be available to EPA in FY 2024, combined with IIJA funding and appropriated resources, will enable the Superfund program to continue with a renewed urgency cleaning up some of the Nation's most contaminated land and respond to environmental emergencies and natural disasters. This historic level of funding will allow EPA to advance critical Superfund pre-construction work such as site characterization, construction design, and community outreach/engagement. Additionally, this funding will allow the Superfund Emergency Response and Removal Program to effectively and efficiently address situations that require emergency response and removal actions such as chemical releases, fires or explosions, natural disasters, and other threats to people from exposure to hazardous substances, including from abandoned and uncontrolled hazardous waste sites. The Budget also includes \$217 million for EPA's Brownfields programs to provide grants and technical assistance to communities so they can safely clean up and reuse contaminated properties, as well as \$20 million for the new Alaska Contaminated Lands program. Taken together, these investments will ensure EPA is cleaning up sites and fully engaging the communities we serve in the process.

Ensuring the Safety of Chemicals for People and the Environment

Chemicals and toxic substances are ubiquitous in our everyday lives and are often released into the environment from their manufacture, processing use, or disposal. EPA has significant responsibilities under amendments to the Toxic Substances Control Act (TSCA) to ensure the safety of chemicals in or entering commerce and addressing unreasonable risks to human health or the environment. The FY 2024 Budget includes \$131 million and 534 FTE to support the TSCA Program, an increase of \$48 million and 174 FTE over the 2023 level. EPA will continue to emphasize quality of work, adherence to statutory intent and timelines applicable to pre-market review of new chemicals, chemical risk evaluation and management, data development and information collection, and review of Confidential Business Information (CBI) claims. These resources will support EPA-initiated chemical risk evaluations, issue protective regulations in accordance with statutory timelines, and establish a pipeline of priority chemicals for risk evaluation.

The agency also has significant responsibility under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to screen new pesticides before they reach the market and ensure pesticides already in commerce are safe. In addition, EPA is responsible for complying with the Endangered Species Act (ESA) and ensuring that federally endangered and threatened species are not harmed when the agency registers pesticides. To continue making progress toward meeting ESA mandates in FY 2024, the Budget includes an additional \$27 million in our environmental pesticides program, including an additional \$10 million to support Endangered Species Act Pesticides Review to improve EPA compliance in pesticide regulatory activities and develop improved methodologies for ESA review.

Elevating Environmental Justice

The development, implementation, and enforcement of environmental laws, regulations, and policies has not always ensured the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income. To help address these inequities, EPA created a new national program in September, the Office of Environmental Justice and External Civil Rights, to lead our efforts in this area and embed environmental justice practices into EPA programs.

In FY 2024, EPA requests more than \$375 million and 265 FTE for the Environmental Justice Program to expand support for community-based organizations, indigenous organizations, tribes, states, local governments, and territorial governments to identify and develop solutions to environmental justice issues through multi-partner collaborations. This includes \$130 million in four environmental justice grant programs and \$91 million and 50 FTE to build out community-centered technical assistance hubs. The Budget provides a total of \$31 million, an \$18 million increase, to build civil rights capacity across EPA and to reduce the backlog of civil rights cases. In the long term, the vigorous enforcement of civil rights laws will address historical and systemic barriers that contribute to the environmental injustice affecting vulnerable communities. The Budget proposes additional funds and FTE to increase protection of fenceline communities with disproportionately high pollution exposure through improving inspections, compliance assistance, and monitoring capacity in those communities.

Continuing to Restore EPA's Core Capacity and Following the Science

The Budget adds more than 1,960 FTE relative to the 2023 enacted level, for a total of more than 17,000 FTE, to help rebuild EPA's capacity. The Budget also will dedicate resources to continue strengthening the agency's ability to recruit, hire, develop, promote, and retain top talent and remove barriers to equal opportunity at management and staff levels to strengthen and advance diversity, equity, inclusion, and accessibility.

Ensuring EPA has the work force it needs to carry out its mission to protect clean air and water, tackle the climate crisis, and promote environmental justice is essential. A commitment to follow the science underpins EPA's work, and this budget includes \$968 million for the Science and Technology account, an increase of more than \$165 million above current levels that will ensure programs have the best available data to inform decisions.

Conclusion

All people in this country deserve clean air, clean water, and safe land on which to live. This is the core of EPA's mission and is a worthy investment of federal resources. The FY 2024 President's Budget positions the EPA to advance our vital mission of protecting human health and the environment, championing environmental justice, and tackling the climate crisis. With these investments we lay the groundwork to ensure the benefits of a cleaner environment for future generations.

Thank you for the opportunity to be here today. I look forward to our continued partnership to achieve our goals and welcome any questions you may have.

Senate Committee on Environment and Public Works
Hearing Entitled, *"The U.S. Environmental Protection Agency's proposed Fiscal Year 2024 Budget"*
March 22, 2023
Questions for the Record for the Honorable Michael S. Regan

Chairman Carper

1. All EPA offices have lost engineers and scientists who have not been replaced. What is the Agency doing to ensure employee retention in areas where EPA is desperately in need of staff to implement climate regulations?

EPA RESPONSE: EPA is fortunate to have a dedicated staff that is committed to working efficiently and productively, often on the ground executing our mission in very visible ways in communities around the country by responding to emergencies and conducting inspections. I am committed to rebuilding EPA's workforce over the next year. The success of EPA's mission depends on our workforce, and we can't support and retain the workforce without adequate payroll. EPA has had considerable success in back-filling critical positions where employees have retired or left the agency. Between April 2022 and April 2023, EPA gained 501 new employees across the hard sciences (occupational series within the biological (0400), medical (0600), veterinary medical science (0700), physical science (1300) occupational groups), and engineering (occupational series within engineering (0800) occupational groups). This gain is almost twice the loss of 259 employees across these series during the same time period.

2. Each EPA regional office is primarily responsible for enforcement of federal environmental law in the states covered by it. Enforcement is down to historically low numbers, and there has been a significant decline in environmental enforcement over the past two years. How is the Agency going to use the resources designated to increase enforcement at EPA?

EPA RESPONSE: Robust funding of enforcement and compliance work is essential for EPA to continue to ensure clean air, safe drinking water, and protection from toxic pollution in communities across the country. To address 21st century environmental problems, as reflected in the FY 2024 President's Budget request, EPA's enforcement program requires significantly more resources than EPA has had in recent years. Since FY 2011, EPA's enforcement program lost more than 900 FTE, which accounts for nearly 30 percent of its workforce. EPA's Inspector General directly tied this decline in resources to decreased enforcement activities between 2007 and 2018. Those declines continued through 2022. The FY 2023 Consolidated Appropriations Act and the Inflation Reduction Act provided approximately \$110 million in new funding and has enabled EPA to start the hiring

process for the additional inspectors and attorneys needed to rebuild the Agency's enforcement program. This new funding will allow EPA to replace about 15 percent of the FTE lost in the prior decade but that means nearly 85 percent of the enforcement and compliance FTE that EPA lost since FY 2011 have not been replaced. For FY 2024, the President's Budget requests \$547 million and 2,666 FTE for EPA to continue rebuilding our enforcement program to allow EPA to detect violations and promote compliance with environmental laws throughout the United States.

3. What measures are being tracked by the Biden Administration in assessing regional enforcement and compliance assurance performance other than those included in the EPA Enforcement and Compliance History Online website (ECHO)?

EPA RESPONSE: As part of EPA's efforts to rebuild its enforcement programs after a decade of budget cuts, the Agency is closely tracking regional enforcement and compliance assurance performance to ensure robust results in future years. EPA has a national enforcement and compliance data system, the Integrated Compliance Information System (ICIS), which supports both the compliance monitoring and civil enforcement programs. As EPA's largest mission-focused data system, ICIS is a critical infrastructure tool used by the Agency, state, tribal, local, and territorial governments to assess enforcement and compliance assurance performance and track compliance and enforcement of all EPA statutes, which facilitates greater compliance and thus protection of human health and the environment. States are a major user of this resource. For instance, 21 state governments depend on ICIS to directly manage their clean water permitting and compliance activities. EPA utilizes ICIS enforcement and compliance data and other information technology tools to: (1) identify potential violations of the federal environmental laws; (2) facilitate efficient enforcement; and (3) promote compliance with these requirements. ICIS data is available to the public via the internet-accessible Enforcement and Compliance History Online (ECHO) system as well as the companion data change notification tool ECHO Notify. Using ICIS and ECHO to electronically track and measure its civil enforcement work allows EPA to better ensure that its enforcement resources are used to facilitate transparency and address the most significant noncompliance problems, including noncompliance affecting overburdened or vulnerable communities and noncompliance that leads to climate impacts. Some of the measures that the Agency tracks regularly and reports in EPA's annual enforcement and compliance results (available at <https://www.epa.gov/enforcement/enforcement-and-compliance-annual-results-fiscal-year-2022>) include compliance monitoring (including percentage of on-site inspections at facilities affecting communities with potential environmental justice concerns), civil judicial and administrative case conclusions, environmental benefits of enforcement actions, and the value of complying actions (injunctive relief).¹ EPA, through the National Targeting Center, also utilizes the data in ICIS and ECHO to help identify the worst problem areas to align inspections and enforcement activities. EPA collaborates with state, local, federal, tribal, and industry partners,

¹ <https://www.epa.gov/enforcement/enforcement-and-compliance-annual-results-fiscal-year-2022>.

through the E-Enterprise initiative, to leverage technologies such as in promoting electronic reporting and permitting. EPA and states implement the National Pollution Discharge Elimination System (NPDES) Electronic Reporting Rule through NPDES electronic reporting tool (NeT), one key tool for improving the availability of clean water compliance data to EPA, states, and the public.

4. What measures will be used by EPA to track state enforcement program performance?

EPA RESPONSE: The early, meaningful, and substantial involvement of EPA’s co-regulator partners is critical to the development, implementation, and enforcement of the Nation’s environmental programs. In FY 2024, EPA will continue to work with states to improve compliance with environmental laws and statutes. EPA recently reaffirmed its longstanding commitment to “ensure the even-handed application and enforcement of federal environmental laws, regulations, and standards, and to provide states with the necessary assistance, tools, methods, and back-up support to solve environmental problems.”² The Agency implements its oversight responsibilities via a wide spectrum of activities, ranging from formal, retrospective reviews of program implementation that occur on a regular basis such as the State Review Framework, Permit Quality Review process (to assess whether NPDES permits meet CWA requirements), and other processes; to scheduled meetings between EPA and state program managers; to matter-specific consultations on high-profile or urgent matters. EPA expects states to collect, maintain, and share data with EPA about environmental outcomes, compliance and enforcement actions, and other activities the Agency may need to conduct effective oversight. Through the State Review Framework process, EPA reviews state performance using metrics such as inspection coverage, accuracy of violation determination, timely reporting of high priority violations and significant noncompliance, and timeliness and appropriateness of enforcement responses. The State Review Framework provides findings and makes recommendations to the states based on these metrics, and the Agency measures the progress of implementing these recommendations.

5. EPA has repeatedly stated that response to environmental emergencies like that in East Palestine is a major priority. If emergency response is a real priority of the EPA, what is the EPA doing to ensure that the Administration’s budget is spent on protection from the fallout of environmental emergencies and hiring adequate number of staff?

EPA RESPONSE: EPA is committed to protecting the health and safety of the American people during and after environmental emergencies. Under the Agency’s Superfund Removal Program, EPA maintains a 24-hour-a-day response capability, and during a national emergency, EPA takes action to prevent, limit, mitigate, or contain chemical, oil, radiological, biological, or hazardous materials releases. EPA Federal On-Scene Coordinators (OSCs) are trained and equipped EPA personnel that respond to, assess, mitigate, and clean up environmental releases. EPA also

² <https://www.epa.gov/system/files/documents/2023-03/principles-and-best-practices-oversight-federal-environmental-programs-2023.pdf>.

provides technical assistance and outreach to industry, states, Tribes, and local communities as part of the Agency's effort to ensure national safety and security for chemical and oil responses.

The FY 2024 President's Budget proposes to transition the Superfund Emergency Response and Removal Program from the annual Superfund appropriation to the Superfund tax receipts. The U.S. Treasury forecasts collecting a total of \$2.54 billion in Superfund tax receipts in FY 2023 which will be available for use in FY 2024 across EPA Superfund programs. In February 2023, the U.S. Treasury made a downward adjustment to the Superfund taxes collected in FY 2022 from \$413 million to approximately \$159.8 million, a reduction of approximately 61.3 percent. EPA will continue to closely monitor the collections of Superfund tax receipts. If a downward adjustment to Superfund taxes in FY 2023 occurs, EPA is committed to working closely with Congress to continue to ensure that the Agency's Superfund Emergency Response and Removal Program has the necessary resources to protect the health and safety of the American people during and after environmental emergencies.

6. How is the EPA using its current funding to support scientific integrity?

EPA RESPONSE: EPA is committed to scientific integrity, which EPA defines as the adherence to professional practices, ethical behavior, and the principles of honesty and objectivity when conducting, managing, using the results of, and communication about science and scientific activities. We have taken, and continue to take, actions that ensure scientific integrity is upheld at the Agency.

EPA is using its current funding to support scientific integrity across the Agency through its Scientific Integrity program and committee, which develops and implements training and outreach for all staff, including both career staff and political appointees. The Scientific Integrity program also responds to employee questions about scientific integrity, provides advice related to scientific integrity queries, and evaluates any allegations of a lapse of scientific integrity. This year, EPA funding has supported the update of EPA's Scientific Integrity Policy and the advancement of a culture of scientific integrity through EPA by working to implement actions under EPA's Strategic Plan, Cross-Agency Strategy 1, *Ensuring Scientific Integrity and Science Based Decision Making*. This work is advanced through the leadership of EPA's Scientific Integrity Official, Deputy Scientific Integrity Officials, and several senior support staff who operationalize this work across the Agency.

In the 2020 OIG report on the implementation of EPA's Scientific Integrity Policy, EPA was recognized for the steps taken to build capacity, invest in, and maintain agency expertise in scientific integrity. And in a 2019 GAO report on scientific integrity at federal agencies, EPA was recognized for its excellent Scientific Integrity Policy and its leadership in implementing it.

Senator Cardin

1. As you work this year to finalize a rule for greenhouse gas emissions reductions from heavy duty vehicles, can you please describe how you will take into consideration the availability of electric charging infrastructure to support a transition to zero emission trucks?
 - a. How will you ensure the pace of delivery of charging infrastructure does not present any barriers to the pace of adoption of new, cleaner heavy duty vehicles?

EPA RESPONSE: EPA is taking action to accelerate towards a clean vehicles future as part of the Agency's Clean Trucks Plan. EPA recently issued a proposal to reduce greenhouse gas emissions from heavy-duty vehicles beginning in Model Year 2027. That comment period is open through June 16, 2023, and EPA held a public hearing on May 2-3, 2023. We expect robust public comments on this issue.

At the same time, the Agency received \$1 billion in funding from the Inflation Reduction Act for clean heavy-duty vehicles. The program provides funding to deploy infrastructure needed to charge, fuel, and maintain zero-emission vehicles and develop and train the necessary workforce to support it.

Ranking Member Capito

1. During your testimony in response to my question regarding the seven-percent administrative set aside for the EPA to manage the Environmental and Climate Justice Block Grant Program and the twenty-percent administrative set-aside EPA announced for pass-through Community Based Organizations you said, "these are similar percentages to all of our administrative oversight and cost dollars for pass-through and grant programs." Based on a review of existing programs, this magnitude of administrative set-asides seems much higher than other EPA programs. For example, the Clean Water and Drinking Water SRFs have significantly lower set-asides on a percentage basis. The Brownfields grant program has a five-percent administrative set-aside. The Lead Contamination in School and Child Care Drinking Water Program has a four-percent administrative set-aside. The only program I have identified that has a set-aside approaching the level that the EPA is planning for the Environmental and Climate Justice Block Program is the State and Tribal Radon Grants program, at 25 percent. How is the proposed set-aside of 20 percent for pass-through entities (which is not provided for in the statutory text) on top of the seven-percent set-aside provided for in the statutory text consistent with other pass-through and grant programs?

EPA RESPONSE: Thank you for the opportunity to clarify the issue of administrative oversight for our environmental justice grant programs. The Environmental and Climate Justice block grant program is required by law under Clean Air Act section 138 (c) to have a 7 percent administrative set aside for EPA to

carry out the program. This set aside covers costs for EPA staff and contractor support. The 20 percent figure under the grant-maker pass-through awards is not a set-aside, but rather will be a term of the grants that provides that, in order to ensure program effectiveness, a minimum of 80 percent of the total funds under each award must be provided by the pass-through grantee to subrecipients to implement the program. A maximum of 20 percent of the grant funds may be used by the grantee to cover costs for their personnel and contractors who administer the grant-maker awards and oversee subrecipient performance. Grantees need to use a reasonable portion of the award to effectively carry out programmatic and administrative responsibilities for coordination and oversight of subawards to ensure the responsible use of federal funds.

2. What specific reporting, tracking, and accountability requirements is the EPA going to impose on “Community-Based Nonprofit Organization” pass-through recipients to protect against waste and fraud in administration of the Environmental and Climate Justice Block Grant program?

EPA RESPONSE: The Agency intends to provide robust oversight and monitoring of these funds to ensure they are effectively and efficiently managed. EPA’s Subaward Policy, which was established in response to recommendations by the EPA Office of Inspector General, provides information to pass-through entities on how EPA oversees pass-through entity performance and includes information on what types of projects may be carried out through subawards. EPA provides pass-through entities with a template subaward agreement that complies with regulatory requirements. EPA’s General Terms and Conditions (T&C) include the Establishing and Managing Subawards T&C which describes pass-through entity responsibilities for subrecipient oversight.³

In addition, EPA’s “Subaward Policy Additional Resources” include over 30 pages of Frequent Questions on subawards and other financial transactions as well as a list of “cross-cutting” Federal requirements that pass-through entities “flow down” to their subrecipients.⁴ However, EPA’s compliance assistance activities for pass-through entities do not end with developing and posting guidance materials. The Agency has a robust training program for applicants and recipients that cover all federal requirements for applying for and managing a grant. Information on EPA’s training program and other resources for applicants and recipients at <https://www.epa.gov/grants/epa-grants-webinars>.

EPA will also impose standards for controls to ensure that representatives of community-based nonprofit organizations involved in the design and decision-making for the subgrants programs do not have relationships with organizations

³ EPA’s Subaward Policy and Fiscal Year 2023 General Terms and Conditions are available at the following links: https://www.epa.gov/sites/default/files/2020-11/documents/gpi-16-01-subaward-policy_attachments.pdf and https://www.epa.gov/system/files/documents/2022-09/fy_2022_epa_general_terms_and_conditions_effective_october_1_2022_or_later.pdf.

⁴ <https://www.epa.gov/grants/epa-subaward-policy-additional-resources>.

competing for subgrants or receiving noncompetitive funding that create actual or apparent conflicts of interests. Those controls must comply with EPA's *Financial Assistance Conflict of Interest Policy*. EPA requires compliance with the Conflict of Interest Policy through the General Terms and Conditions, Disclosing Conflicts of Interest section, which applies to all EPA assistance agreements.

With respect to allowability of costs—including ineligible activities like lobbying—EPA provides applicants and recipients with detailed guidance in our *Interim General Budget Development Guidance for Applicants and Recipients of EPA Financial Assistance, Selected Items of Cost Guidance, and Participant Support Cost Guidance*. EPA staff closely review applicant budgets during pre-award reviews to verify that activities are eligible for funding.

EPA has a number of tools for monitoring recipient performance to prevent the use of EPA funding for activities or projects that are ineligible for funding. These tools are described in EPA Order 5700.6 Policy on Compliance, Review and Monitoring a copy of which is attached. EPA also pays particular attention to the capabilities of nonprofit organizations, an entity type that EPA anticipates receiving most pass-through recipients' applications from, through the procedures established in EPA Order 5700.8 Policy on Assessing Capabilities of Non-Profit Applicants for Managing Assistance Awards. EPA Order 5700.8 reflects EPA's view that it is preferable to address capabilities issues before, rather than after, an assistance agreement is awarded. Accordingly, Order 5700.8 prescribes uniform pre-award procedures for evaluating the administrative and programmatic capability of non-profit applicants. Order 5700.8 also establishes uniform post-award procedures for addressing a material failure to comply by non-profit recipients. Taken together, these procedures strengthen Agency oversight by helping to prevent or rectify financial mismanagement or poor performance by non-profit recipients.

3. Will the EPA announce requirements to address the issues in the preceding question to pass-through entities prior to awarding grants under this program?

EPA RESPONSE: Yes. EPA communicates policies, Terms and Conditions, and other reporting and compliance requirements through the Notice of Funding Opportunity. The Agency also emails Recipient/Applicant Information Notices for all existing and new grants policies and requirements and posts them at <https://www.epa.gov/grants/epa-policies-and-guidance-grants>. In addition, the Agency is developing an internal Program Integrity Framework to help EPA strengthen tracking of grant investments, and also to further identify risks, ensure internal controls function, and reduce the risk of fraud, waste, and abuse.

4. In your testimony, you committed to providing a list to the Committee of all Community-Based Nonprofit Organizations that are chosen as pass-through entities under the Environmental and Climate Justice Block Grant program. Please submit that list to the Committee as soon as selections have taken place.

EPA RESPONSE: We will provide that information to the Committee after Grantmaker selections are announced.

5. What are the total number of current EPA employees in the office for a full five-day work week every week?

EPA RESPONSE: Similar to other large organizations in government and in the private sector, EPA operates in a hybrid environment, with employees who work on-site, remotely, or in some hybrid capacity.

6. What are the total number of EPA employees in the office for three or fewer days every week?

EPA RESPONSE: Similar to other large organizations in government and in the private sector, EPA operates in a hybrid environment, with employees who work on-site, remotely, or in some hybrid capacity.

7. What are the total number of EPA employees in the office for three or fewer days every two weeks?

EPA RESPONSE: Similar to other large organizations in government and in the private sector, EPA operates in a hybrid environment, with employees who work on-site, remotely, or in some hybrid capacity.

8. What are the total number of EPA employees in the office for one or fewer days every two weeks?

EPA RESPONSE: Similar to other large organizations in government and in the private sector, EPA operates in a hybrid environment, with employees who work on-site, remotely, or in some hybrid capacity.

9. What are your planned work arrangements for the thousands of new hires in your budget proposal?

EPA RESPONSE: As a model employer, EPA will integrate new hires into our hybrid work environment, which includes leveraging the workplace flexibilities available to current EPA employees.

10. What percentage of office space at EPA headquarters is actually occupied on a daily basis?

EPA RESPONSE: EPA will continue to re-envision the physical workspace of the Agency through facility modernization, to ensure that the Agency has the optimal footprint for a hybrid workforce, and to identify opportunities to reduce leased space to decrease EPA's rent costs.

11. Were the EPA's negotiated memoranda of understanding with employees' union AFGE Council 238 a significant factor when setting workplace occupancy policies?

EPA RESPONSE: EPA continues to engage and work extensively with its unions to establish timelines and flexible workforce policies for the use of our physical offices. EPA signed an Interim Agreement with AFGE to comply with Executive Order 14025. The Agency is dedicated to improving its relationship with its unions, and we have made progress on negotiations over our workplace flexibility policies.

12. In February 2023, the EPA finalized its revised Financial Capability Assessment Guidance, which is a critical tool designed to gauge how much a community can afford to pay to meet its Clean Water Act compliance requirements. Can you explain the process for how this document was altered from previous iterations?

EPA RESPONSE: EPA is committed to ensuring that all Americans have access to essential water services and clean water. The Financial Capability Assessment (FCA) guidance provides a framework to help achieve that goal for rural, suburban, and urban communities across the country. The updated Financial Capability Guidance outlines strategies that municipalities can employ to reduce costs and relieve the burden on low-income residents while ensuring clean water for residents. In FY2016, Congress directed EPA to utilize the National Academy of Public Administration (NAPA) to conduct an independent study to create a definition and framework for community affordability. NAPA issued its report in 2017, with 21 recommendations. In response to NAPA's report and feedback from other stakeholders, EPA published a *Federal Register* Notice (FRN) on September 18, 2020, to request public comment on a revised methodology for evaluating a community's capability to fund Clean Water Act projects/programs. After incorporating comments and other feedback, on February 23, 2022, EPA published another FRN requesting additional comments. EPA published the updated Financial Capability Assessment (FCA) Guidance on February 3, 2023.

13. Can you provide a list of stakeholders that were consulted before releasing the revised Financial Capability Assessment Guidance?

EPA RESPONSE: EPA held a number of stakeholder meetings before issuing the FCA Guidance. This included a series of meetings in the fall of 2021 with organizations including, but not limited to, the U.S. Conference of Mayors, National Association of Counties, National League of Cities, Natural Resources Defense Council, National Association of Clean Water Agencies, American Water Works Association, Water Environment Federation, and the Association of Clean Water Administrators. EPA held additional outreach meetings with many of these same groups prior to the release of the revised FCA Guidance.

14. While IIJA funds are available until expended, under both the Clean Water Act and the Safe Drinking Water Act, states have to attach the funding to specific projects within two years. EPA allocated the first tranche of IIJA SRF funding to states on December 2, 2021.

On December 2, 2023, is the EPA going to reallocate those 2022 funds to other states if the original recipient cannot establish its assistance agreements by then?

EPA RESPONSE: The Bipartisan Infrastructure Law provides EPA with funding over a five-year period, from FY 2022 through FY 2026. Pursuant to the Clean Water Act and the Safe Drinking Water Act, SRF funding is available for award to the states during the fiscal year in which it is appropriated and the following fiscal year.

For example, for FY 2022 funding, states have until September 30, 2023 (end of FY 2023) to receive their SRF capitalization grant awards. After this date, any unawarded FY 2022 funds are subject to reallocation by EPA. However, once the states receive their capitalization grants, they have additional time to enter into assistance agreements with eligible entities and provide this funding to high priority projects.

15. There are lot of reasons a state may need more time to identify specific projects for funding, including necessary time to provide technical assistance to help the neediest communities. Do you believe the timeframe should be extended, and does the EPA need new authority to do so?

EPA RESPONSE: The CWA and SDWA offer states a sufficient timeframe to identify projects and to provide technical assistance to the neediest communities to ensure they receive their fair share of SRF funding.

Upon receiving its capitalization grant award, a state works with EPA to establish a grant payment schedule based on when it expects to be able to make assistance agreements. A grant payment schedule can extend to 8 quarters after the grant is awarded or 12 quarters after funds are made available by the appropriation, whichever is sooner. Once a grant payment is made, a state has up to one year to enter into assistance agreements equal to that grant payment and accompanying state match. To extend these schedules, EPA would need new authorities.

16. As the EPA has worked to implement the IIJA, there seems to be a pattern that we have seen with other agencies like the Federal Highway Administration⁵ where an agency is pushing states to implement policy priorities that Congress either considered and rejected, or explicitly did not direct the agency to implement in the statute. One recent example is EPA guidance on the state revolving loan funds, reauthorized and funded in historic fashion in the IIJA, that pushes states to rewrite their definitions of disadvantaged communities and affordability criteria in line with the Administration's Justice40 initiative, despite the fact that the Safe Drinking Water Act explicitly gives states the authority to define disadvantaged communities and affordability criteria within their borders. See March 2022 SRF Memo, available at: https://www.epa.gov/system/files/documents/2022-03/combined_srf-implementation-memo_final_03.2022.pdf. During your testimony you underscored the EPA's goal to

⁵ <https://www.gao.gov/assets/820/814061.pdf>

force states to change their policies and definition, not in line with the IIJA and SDWA, but instead the EPA's and Administration's policies that have not be mandated or delegated by Congress. Specifically, you said in your testimony, "So we are excited to see that many States are actually revising the definitions of disadvantaged communities for the State Revolving Loan Fund programs as a result of our guidance." Under what statutory authority do you believe you are acting to limit flexibility for states to administer the SRFs in the March 2022 SRF Memo?

EPA RESPONSE: In the Bipartisan Infrastructure Law, Congress included additional subsidization requirements to ensure that disadvantaged communities have access to SRF funding to improve their water infrastructure to protect public health. EPA's March 8, 2022 Memorandum, "Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law," reinforces the Agency's commitment to working with states, tribes, and territories to maximize the impact of BIL funds in addressing urgent water challenges facing communities. The memo emphasizes that a key priority of the Agency is to "provide flexibility to meet local water needs." The memorandum affirms that states have significant flexibility in administering the SRF programs, including the authority and responsibility to establish affordability criteria under the CWA and define a disadvantaged community under SDWA, and underscores EPA's commitment to supporting states that wish to review and improve their affordability criteria and disadvantaged community definitions to meet local needs.

17. EPA has the authority to direct grants to underserved communities already, see section 1459A of the Safe Drinking Water Act, which it is not utilizing. So why is the EPA treading on the states' statutory authority to determine their own needs through the SRFs with the March 2022 SRF Memo?

EPA RESPONSE: In its March 2022 Bipartisan Infrastructure Law (BIL) SRF implementation memo, EPA affirms the flexibility granted in statute for each state to establish its own affordability criteria and definition of a disadvantaged community.

The SDWA requires states to establish definitions of disadvantaged communities, which determine a public water system's eligibility to receive grants or forgivable loans as additional subsidization. The BIL mandates that 49 percent of funds provided through the DWSRF General Supplemental Funding and the DWSRF Lead Service Line Replacement Funding must be provided as additional subsidization as grants and forgivable loans to disadvantaged communities. The BIL also requires, as provided in section 1452(a)(2)(G) of SDWA, that not less than 25 percent of funds provided through the DWSRF Emerging Contaminants Funding be provided as grants and forgivable loans to disadvantaged communities or public water systems serving fewer than 25,000 people.

For the CWSRF, the BIL mandates that 49 percent of funds provided through the CWSRF General Supplemental Funding must be provided as grants and forgivable

loans to the following assistance recipients or project types, as described in section 603(i) of the CWA: municipalities that meet the state's affordability criteria; municipalities that do not meet the state's affordability criteria but seek additional subsidization to benefit individual ratepayers in the residential user rate class; and entities that implement a process, material, technique, or technology that addresses water or energy efficiency goals, mitigates stormwater runoff, or encourages sustainable project planning, design, and construction.

18. Will the EPA rescind the portion of the March 2022 SRF Memo that is inconsistent with Congress's delegation to States—not the EPA—to make determinations that reflect the needs and unique circumstances within their jurisdictions?

EPA RESPONSE: Congress, acting in a bipartisan fashion, included additional subsidization provisions in the BIL SRF appropriations to ensure that disadvantaged communities fully benefit from these historic investments in the water sector. The Agency's March 8, 2022 Memorandum, "Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law," affirms that, consistent with SDWA and the CWA, states have the flexibility to define a disadvantaged community and establish affordability criteria and that EPA will support states to fully meet the statutory requirements for additional subsidization. This is one reason why EPA recommended that states review their definitions of disadvantaged community established under SDWA and affordability criteria established under the CWA. EPA offered recommendations on factors that states could consider when updating those definitions and affordability criteria to ensure they are reflective of current affordability issues within the state. Moving forward, EPA will continue to work with states to both ensure maximum flexibility while also providing oversight to ensure that disadvantaged communities benefit from these investments, consistent with the statutory requirements.

19. In 2016 in the WIIN Act, Senator Sullivan and I drafted Section 1459A of the Safe Drinking Water Act to provide a pot of money for direct EPA grants to small and disadvantaged communities, with a requirement to give priority to underserved communities. The EPA has never implemented that provision as drafted. Instead of issuing direct grants to underserved communities, the EPA has instead given all the money it received for that program to states and allocated the funds using the SRF formula. This approach guarantees that the majority of the money will go to larger communities with the capacity to hire engineers, accountants, and lawyers. The SRFs are hugely successful, but the neediest communities need a different approach, like direct grants. What will the EPA do to account for this disparity before all the IJA funds are expended?

EPA RESPONSE: The WIIN Act grant program under section 1459A of SDWA was authorized to focus on small, underserved, and disadvantaged communities. These communities often have limited capacity to apply for and manage Federal grants, as small and disadvantaged water systems often lack technical and financial

capacity. They are also more likely to need substantial assistance to understand and address cross-cutting grant requirements, such as the Build America, Buy America Act and the Endangered Species Act. EPA's implementation approach, through the support of the states, is the best way to reach and fund projects prioritizing drinking water infrastructure improvements. Additionally, the states can administer the grant funding and provide oversight and assistance to communities with limited resources.

As section 1459A of SDWA requires, eligible communities for the grant program include those that do not have household drinking water or wastewater services; or are served by a public water system that violates, or exceeds, as applicable, a requirement of a national primary drinking water regulation. A state must submit a project workplan that includes communities that are small or disadvantaged, and the communities must meet the statutory underserved criteria. All of the funds under this grant program have gone to projects that support underserved communities.

20. How much Section 1459A funding currently is going to underserved communities?

EPA RESPONSE: Under the SDWA section 1459A grant program established by the WIIN Act, all federal funding awarded is going to projects/activities that serve underserved communities. The program has awarded over \$65 million to states, territories, and Tribes, which has contributed to over \$83 million in project investments in underserved communities across the country.

21. In terms of the Toxic Substances Control Act (TSCA) program, does the EPA intend to factor in the decreased revenue stemming from reduced pre-manufacture notices (PMNs) in its budgeting calculations?

EPA RESPONSE: EPA's TSCA budget situation continues to be a challenge. Despite facing a significant increase in responsibility and ambitious statutory deadlines from the 2016 amendments to TSCA, the previous Administration did not request increased resources for the TSCA program. The nearly \$18 million increase in FY 2023 TSCA program funding is a welcome investment but is short of what is needed.

As revisions to the TSCA fees are still in the proposal stage (<https://www.epa.gov/tsc-fees/proposed-revisions-tsc-fees-rule>), the impact of the rule on the number of new chemical submissions to EPA is not yet known. In Fiscal Year 2023, EPA anticipates receiving between 400 and 500 PMN submissions, which is similar to previous years. If funding from the Bipartisan Infrastructure Law and Inflation Reduction Act incentivizes investments in new chemistries for electric vehicles, semiconductors, and hydrofluorocarbon replacements, such submissions may actually increase.

22. Despite hiring additional health assessors, there has not been a noticeable increase in the number of new chemical determinations completed. Please explain why productivity has not improved despite more than doubling the number of health assessors on staff compared to 2022.

EPA RESPONSE: For the past seven months, EPA received about 231 new FY 2023 submissions, and in the same timeframe has completed 272 risk assessments and 207 risk management actions, which includes FY 2023 and older submissions.

In 2022, EPA made major improvements to its Statistics for the New Chemicals Review Program public webpage (<https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/statistics-new-chemicals-review>). The information provided on the webpage demonstrates that EPA's performance in reviewing new chemical submissions is improving. In the last seven months (October 2022 through April 2023), EPA completed over 270 risk assessments, and has increased monthly risk assessment completion by more than 50 percent when compared to monthly rates from July 2022 to September 2022. This progress is a result of EPA's aggressive recruitment efforts, training and mentoring of employees, and continuous improvement of the Agency's review procedures.

23. The number of PMNs under review for greater than the statutory limit of 90 days has increased approximately 43 percent—from 204 in January to 357 as of March 2023. How will you address the number of submissions in the backlog?

EPA RESPONSE: In the past seven months, EPA received 231 new FY 2023 submissions, has completed 272 risk assessments, and 207 risk management actions for FY 2023 and older cases. EPA anticipates that throughput will continue to increase as we train six new human health assessors hired as of April 21, 2023. Previously we had two assessors, and now have ten through a combination of new hires and detailees, with an eleventh expected to begin soon and two more new hires expected after that. As we continue our hiring and recruitment efforts, and find more opportunities to streamline/standardize reviews, and/or develop new/update existing science policies, we will successfully close out additional cases.

EPA has also started to build the scientific and other infrastructure needed to meet TSCA's requirements to quickly and protectively review new chemicals. EPA has updated science policies, implemented an aggressive recruitment and hiring plan, developed enhanced training and mentoring for new and existing staff, and engaged in ambitious efforts to standardize approaches for similar compounds with similar uses for which multiple submissions have been received. For example, EPA just concluded a two-part webinar series on its new standardized risk assessment approach for mixed metal oxides. The approach implements a more efficient process to assess risk and apply mitigation measures for this group of chemicals used in electric vehicle batteries, semiconductors, and other energy sectors. EPA is also engaging with the fragrance industry to explore whether a standardized approach for assessing certain ingredients in fragrances is scientifically appropriate.

In addition, in February 2023, EPA concluded its engineering initiative three-part webinar series to reduce “re-work” of initial risk assessments. Rework is often necessary when submitters supplement incomplete initial new chemical review submissions, which contributes to delays in EPA’s reviews of these chemicals. When PMN submitters supplement their initial submissions with new information, EPA must dedicate resources to additional review of those submission, reducing the resources available to review new submissions. EPA conducted outreach to ensure that submitters have the information they need to submit notices that move through the new chemicals review process as quickly as possible.

24. How does the EPA internally track its progress in addressing PMNs subject to review for greater than 90 days?

EPA RESPONSE: EPA uses an internal database, New Chemical Review (NCR), to track the number of days a chemical is in review. If a company voluntarily suspends a case beyond the initial 90 days, the new day-90 is captured in NCR. Progress in addressing PMNs in review beyond the initial day-90 is reflected on EPA’s new chemicals statistics webpage (<https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/statistics-new-chemicals-review>).

- a. If the EPA utilizes metrics, would the Agency share a list of these metrics with the Committee?

RESPONSE: EPA’s public webpage, “Statistics for the New Chemicals Review Program under TSCA,” provides a range of regularly updated information about the new chemicals program. (<https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/statistics-new-chemicals-review>)

- b. Does the EPA intend to make these metrics publicly available?

EPA RESPONSE: EPA’s public webpage, “Statistics for the New Chemicals Review Program under TSCA,” provides a range of regularly updated information about the new chemicals program (<https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/statistics-new-chemicals-review>).

25. Wire transfer payment options can be submitted to the EPA to cover fees related to the Office of Pesticides Program (OPP) for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Pesticide Registration Improvement Act of 2022 (PRIA 5). Why did EPA choose to exclude wire transfer as a TSCA fees payment option?

EPA RESPONSE: EPA’s selection of Pay.gov for electronic payment of TSCA fees using a credit or debit card allows the Agency to easily track and verify payments,

linking payments directly to submissions. Additionally, Pay.gov allows verification of fee payments required at the time of submission, which is necessary for the Agency's new chemicals program. EPA considered allowing payment of TSCA fees using Fedwire—generally used for foreign payments—through which payers authorize a financial institution to initiate a wire transfer to the Federal Reserve Bank of New York. However, in line with the 2018 TSCA fees rule, that “Fedwire is not a viable option for the Agency's current financial systems,” also adding that Fedwire does not currently provide the tracking and transmittal options that Pay.gov does. Also due to the chronic underfunding of the TSCA program, the additional effort required to track wire payments and connect them to the payer would impose a significant burden on the EPA. EPA will revisit the 2018 decision if additional resources are provided to implement TSCA. EPA made the decision very earlier on, prior to their current full time equivalent (FTE) challenges, when the original PRIA authorization had passed, to dedicate additional FTE to make the wire transfer option work. Given the current challenge for the TSCA program of reduced funding, however, the decision was made not to dedicate limited TSCA FTE to this effort at this time.

26. What is the EPA's plan to meet its statutory deadlines for risk evaluation and risk management considering it is already behind schedule for this year?

EPA RESPONSE: Because the TSCA program has been chronically underfunded, EPA will not meet most of its current statutory deadlines. EPA is working to identify efficiencies in its risk evaluation and risk management processes in order to develop a leaner, more focused approach to meet TSCA's timelines while still using the best available science. The risk management efficiencies will allow the Agency to get rules in place to protect our affected communities more quickly.

For example, EPA is developing TSCA section 5(a)(2) significant new use rules (SNURs) that align with the timing of current and future risk evaluations under TSCA section 6 in order to assist with identifying uses relevant to TSCA risk evaluations early in the risk evaluation process. This helps to avoid reworking or scrambling to understand and analyze uses that are identified later through systematic review, subsequent public comment periods, or other stakeholder engagement.

As another example EPA is creating a sustainable pipeline of chemicals for evaluation under TSCA. In the near term, EPA aims to prioritize chemicals from the 2014 Update to the TSCA Work Plan for Chemical Assessments to build on the substantial work already completed to characterize these chemicals. Going forward, EPA expects that approximately five chemicals per year will be prioritized for risk evaluation. This would enable EPA to more effectively balance our risk evaluation workload while moving a consistent number of chemicals into risk management. A pipeline approach also allows for more interaction with the regulated community at regular, predictable intervals. In addition to soliciting public comment on the chemicals proposed for prioritization during the prioritization process, EPA expects

to, during the pre-prioritization phase, actively engage industry to increase EPA's understanding of the relevant sectors and conditions of use for the chemical substances to inform risk evaluations.

27. Does the EPA intend to implement a cumulative impacts approach to risk evaluations under TSCA?

a. If so, when are changes expected to be released to the public?

EPA RESPONSE: TSCA does not explicitly require EPA to conduct cumulative risk or impacts assessments. TSCA requires EPA to consider the reasonably available information, as well as use of the best available science to make decisions based on the weight of scientific evidence. For some chemical substances undergoing risk evaluation, the best available science may indicate that the development of a cumulative risk assessment (assessing risk from exposure to multiple chemicals) is appropriate to ensure that any risks to human health and the environment are adequately characterized. EPA is proposing to conduct a cumulative risk assessment for a subset of high-priority and manufacturer-requested chemicals currently undergoing risk evaluation.

Analysis of "cumulative impacts" may consider factors beyond cumulative risk assessment, such as the impact of non-chemical stressors on susceptibility to disease caused by chemical exposure. EPA and others are working to advance the science on the inclusion of factors such as non-chemical stressors in chemical risk evaluation. As the science advances, EPA's TSCA program will continue to consider how to incorporate it in chemical risk evaluation and management efforts.

At present, for the phthalate chemicals undergoing TSCA section 6 risk evaluations, EPA is proposing an approach to apply cumulative risk assessment approaches in parallel with conducting risk evaluations on the individual phthalate chemicals. The proposed methodology is explained in "Draft Proposed Approach for Cumulative Risk Assessment of High-Priority Phthalates and a Manufacturer Requested Phthalate Under the Toxic Substance Control Act," which was released for public comment and peer review in February 2023. By releasing this approach for public comment and peer review now, EPA is ensuring that the methods used to conduct the cumulative risk assessment will be based on the best available science. The results of this peer review are expected to allow EPA to advance its use of cumulative assessment, while still meeting its obligations for evaluating high-priority and manufacturer-requested chemicals.

28. How will the EPA ensure that its intended approach to cumulative risk evaluation does not further slow risk evaluations?

EPA RESPONSE: As noted above, the TSCA Program has been chronically underfunded. Regardless of whether EPA has the resources needed to meet risk evaluation deadlines, EPA is still obligated to use the best available science in its risk

evaluations and for some chemical substances undergoing risk evaluation. The best available science may indicate that the development of a cumulative risk assessment is appropriate, to ensure that any risks to human health and the environment are adequately characterized. At this time, EPA does not anticipate the cumulative risk approaches being considered will significantly slow risk evaluation development.

29. Has the Integrated Risk Information System (IRIS) program ever been authorized by Congress?

EPA RESPONSE: The IRIS Program supports implementation of EPA's risk assessment requirements as described in numerous Federal statutes. This includes the Clean Air Act, the Safe Drinking Water Act, the Comprehensive Environmental Response, Compensation, and Liability Act, and the Toxic Substances Control Act. The authority for the IRIS Program's mission of developing assessments that evaluate potential human health effects that may result from exposure to environmental contaminants, is contained in the relevant research and risk assessment requirements within statutes governing the EPA. EPA continues to receive annual appropriations to its Science and Technology (S&T) account that funds the IRIS program and routinely receives programmatic direction contained within supplemental appropriations documentation.

30. What statutory authority granted to the EPA's Office of Research and Development do you believe authorizes the development and issuance of IRIS assessments?

EPA RESPONSE: The IRIS Program supports implementation of EPA's risk assessment requirements as described in numerous Federal statutes. This includes the Clean Air Act, the Safe Drinking Water Act, the Comprehensive Environmental Response, Compensation, and Liability Act, and the Toxic Substances Control Act. The authority for the IRIS Program's mission of developing assessments that evaluate potential human health effects that may result from exposure to environmental contaminants is contained in the relevant research and risk assessment requirements within statutes governing the EPA. EPA continues to receive annual appropriations to its Science and Technology (S&T) account that funds the IRIS program and routinely receives programmatic direction contained within supplemental appropriations documentation.

31. Has an IRIS assessment ever been used to displace the rulemaking and risk assessment processes under any congressionally authorized statutes?

EPA RESPONSE: IRIS assessments are only one part of EPA's risk assessment process, providing scientific information on hazard identification and dose-response analysis. During EPA's rulemaking and risk assessment processes, EPA offices and regions separate from the IRIS program combine the scientific conclusions regarding hazard identification and dose response analysis from IRIS assessments with other scientific information, including information on human exposure, to characterize risk (i.e., risk assessment) and inform decisions. Such decisions

incorporate risk management policy considerations and undergo separate development and rule-making review processes outside the IRIS program. The use of IRIS assessments, and other scientific assessments, to inform decisions is consistent with the EPA's Strategic Plan Strategy No. 1 to ensure scientific integrity and science-based decision making.

32. Why did EPA choose to not include a separate line item for IRIS in its budget request?

EPA RESPONSE: The IRIS program is a part of the larger Health and Environmental Risk Assessment (HERA) Program/Project and the Chemical Safety for Sustainable (CSS) Program Area within the EPA budget structure. Consistent with prior years, IRIS is not its own budget line-item within the structure of the President's Budget submission.

33. Please provide the total spending and full-time equivalents working under the IRIS program.

EPA RESPONSE: Within the FY 2023 enacted budget, EPA has allocated \$11.3 million and 40 FTE for IRIS.

34. Please provide a list of all cases where the EPA utilized an IRIS assessment to take enforcement action against a facility.

EPA RESPONSE: EPA's Office of Enforcement and Compliance Assurance (OECA) addresses pollution problems that impact American communities through vigorous civil and criminal enforcement. Those enforcement activities target the most serious water, air, and chemical hazards. OECA works with EPA regional offices, and in partnership with state and tribal governments, and other federal agencies to enforce the Nation's environmental laws, including: Clean Air Act, Clean Water Act, Comprehensive Environmental Response, Compensation, and Liability Act, Emergency Planning and Community Right-to-Know Act, Federal Insecticide, Fungicide, and Rodenticide Act, Marine Protection, Research, and Sanctuaries Act, Oil Pollution Act, Resource Conservation and Recovery Act, Safe Drinking Water Act, and Toxic Substances Control Act.

EPA does not comment on active enforcement actions. Nevertheless, enforcement actions are taken to address violations of federal environmental statutes. To the extent that an IRIS assessment informed an enforcement action with scientific information regarding hazard and dose-response for chemical(s) of interest, it would be set forth in the complaint. Scientific information regarding hazard and dose-response is typically combined with other scientific information related to exposure and risk characterization to inform decisions. Furthermore, enforcement actions have risk management considerations that are separate from the scientific assessments developed by IRIS. The use of IRIS assessments, and other scientific assessments, to inform decisions is consistent with the EPA's Strategic Plan Strategy No. 1 to ensure scientific integrity and science-based decision-making.

35. Please provide a list of all cases where the EPA utilized an IRIS assessment to deny a permit application or renewal from a facility.

EPA RESPONSE: As noted above, IRIS assessments contribute to the scientific basis for decisions made under an array of environmental laws, including the Clean Air Act, Clean Water Act, Safe Drinking Water Act, Toxic Substances Control Act, and Comprehensive Environmental Response, Compensation, and Liability Act. To the extent that an IRIS assessment informed a permitting action, it would be set forth in the decision document.

36. Are IRIS assessments considered regulations or final agency actions subject to the Congressional Review Act?

EPA RESPONSE: No. Policy-neutral, scientific documents, including IRIS assessments, are not rulemakings under the APA definition and therefore not subject to the Congressional Review Act.

37. Are IRIS assessments subject to an interagency review process?

EPA RESPONSE: The IRIS Assessment Development Process includes an interagency science consultation and an interagency science discussion.

38. Why has EPA not developed an IRIS Assessment Plan or Systematic Review Protocol for formaldehyde?

EPA RESPONSE: The draft formaldehyde assessment had already completed Step 1 of the IRIS process (draft development) when the IRIS program first established the practice of releasing assessment plans and protocols for newly initiated assessments. In the draft IRIS formaldehyde assessment, the “Preface on Assessment Methods and Organization” describes the methods and approaches applied to develop the assessment, with additional methodological considerations provided in the appendices. The information provided in the Preface and Appendices of the draft formaldehyde assessment are comparable to the information in an IRIS assessment protocol. EPA received public comments on the draft assessment in 2022 and anticipates receiving independent external peer review comments in 2023 from the National Academy of Science, Engineering, and Medicine (NASEM).

39. Please explain how the agency would use the \$4 million and 19 FTEs requested to address outstanding recommendations from the Government Accountability Office (GAO) for the IRIS program.

EPA RESPONSE: EPA’s IRIS Program supports EPA’s mission to protect human health and the environment by identifying and characterizing the health hazards of chemicals found in the environment. Since 2009, GAO has identified IRIS and

TSCA as high-risk programs under *Transforming EPA's Processes for Assessing and Controlling Toxic Chemicals*, and the programs have undergone multiple GAO audits. In April 2023, GAO released the latest High-Risk Report, which saw EPA improve across three of the five rating criteria (leadership commitment, demonstrated progress, and monitoring) for the IRIS Program. EPA has continued to prioritize addressing open GAO recommendations associated with the IRIS Program. As of June 2023, EPA has successfully resolved 18 of 22 GAO IRIS recommendations provided over this period and has requested closure of the four remaining open recommendations. Any additional funds appropriated to EPA's IRIS Program will be used to advance efforts to remove the IRIS Program from the High-Risk List by continuing recent progress in advancing assessments through the 7-step IRIS process.

40. How does the EPA intend to address the criticisms of the IRIS program from reputable scientific and regulatory oversight entities such as the National Academy of Sciences and GAO?

EPA RESPONSE: EPA's IRIS Program supports EPA's mission to protect human health and the environment by identifying and characterizing the health hazards of chemicals found in the environment. EPA is committed to ensuring the IRIS Program provides high-quality assessments that adhere to the highest standards of scientific integrity and that are both transparent and timely. Since 2009, EPA has incorporated and addressed recommendations by GAO and the National Academy of Science, Engineering, and Medicine (NASEM) to streamline the assessment development process, improve transparency, and create efficiencies within the IRIS Program. NASEM reviews in 2014 and 2018 commended the substantive progress made in improving the IRIS Program. In 2021, NASEM favorably reviewed the IRIS Handbook, which describes the methods used to produce IRIS assessments, and the Handbook was finalized in December 2022.

Similarly, EPA has made significant progress in addressing outstanding GAO recommendations provided to the IRIS Program. As of April 2023, EPA has successfully resolved 18 of 22 GAO IRIS recommendations provided over this period and has requested closure of three of the four remaining open recommendations. EPA anticipates requesting closure of the remaining recommendation in FY2023. EPA saw significant improvement regarding the IRIS program in GAO's 2023 High Risk Ratings across multiple high-risk criteria.

41. Why has the Agency failed to act on outstanding GAO recommendations when some date back over a decade?

EPA RESPONSE: EPA's IRIS Program supports EPA's mission to protect human health and the environment by identifying and characterizing the health hazards of chemicals found in the environment. As of June 2023, EPA has successfully resolved 18 of 22 GAO IRIS recommendations provided over this period and has requested closure of the four remaining open recommendations. EPA saw significant

improvement regarding the IRIS program in GAO's 2023 High Risk Ratings across multiple high-risk criteria.

42. On January 5, 2023, the EPA proposed an update to the National Emissions Standards for Hazardous Air Pollutants for Lime Manufacturing Plants. My staff has heard concerns about a lack of compliance with the Regulatory Flexibility Act (RFA) and the Small Business Regulatory Enforcement Fairness Act (SBREFA) as it relates to this proposal. How is the EPA planning to address any potential violations of the RFA and SBREFA from the proposal in order to minimize the impacts of the rule?

EPA RESPONSE: The National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Lime Manufacturing Plants applies to commercial and captive lime manufacturing plants that are located at a major stationary source of hazardous air pollutants (HAP). The rule regulates particulate matter (PM) emissions, as a surrogate for the non-volatile and semi-volatile metal HAP, from lime kilns, coolers, and certain material processing operations. The Agency issued a proposed rule on January 5, 2023, to amend the NESHAP to ensure that all emissions of HAP from sources in the source category are regulated.

Since the issuance of the proposed rule, the Agency also has received comments related to Regulatory Flexibility Act (RFA) and the Small Business Regulatory Enforcement Fairness Act (SBREFA) compliance. EPA has notified the Small Business Administration's Office of Advocacy and the Office of Management and Budget of our intent to conduct a Small Business Advocacy Review Panel. The EPA web page on this topic is at <https://www.epa.gov/reg-flex/potential-sbar-panel-national-emission-standards-hazardous-air-pollutants-lime>. The Panel process for the Lime Manufacturing Plants NESHAP will provide an opportunity for small businesses, small governments, and small organizations (collectively referred to as small entities) to provide advice and recommendations to ensure that EPA carefully considers small entity concerns.

43. Given the Agency's analysis in the National Emissions Standards for Hazardous Air Pollutants for Lime Manufacturing Plants proposal showed minimal public health benefits from the rule, does the EPA plan to adopt maximum flexibilities allowed under the Clean Air Act to minimize any potential burden on the lime industry?

EPA RESPONSE: As noted above, EPA issued a proposed rule on January 5, 2023, to amend the NESHAP for Lime Manufacturing Plants to ensure that all emissions of HAP from sources in the source category are regulated. The Agency held a public comment period on the proposed rule, which concluded on February 21, 2023. We are currently reviewing public comments, and we intend to convene a SBAR Panel to advise EPA on addressing small entity concerns.

Senator Cramer

1. Administrator Regan, last winter the North American Reliability Corporation released its Long-Term Reliability Assessment which concluded Electricity generation retirements in the Midcontinent Independent System Operator region are outpacing replacement capacity. Similarly, the PJM Interconnection recently projected it will lose 40 GW of generating capacity by 2030 with only 31 GW of capacity additions over the same period. PJM projected that upcoming retirements will mostly be policy-driven. As these concerning reliability reports continue to come out and the EPA issues more and more proposed and final regulations which will result in coal-fired generation retirements – such as the Regional Haze second planning period regulations, Interstate Transport, Effluent Limitations Guidelines, Coal Combustion Residuals regulations, and Mercury and Air Toxics Standards – Congress is hearing from states and communities who are worried the risk of blackouts is only growing with little care from the Agency.
 - a. Can you please list the consultations EPA has conducted with the Department of Energy, FERC, Independent System Operators, and states in connection with potential capacity impacts of planned, or proposed, and final EPA rules affecting the nation’s power sector?

EPA RESPONSE: We all depend on a resilient power sector for affordable and reliable electricity. Maintaining grid reliability is a critical focus for the power sector as the country’s generation mix shifts while extreme weather events become more frequent due to climate change. We develop our rules to make sure that there is no conflict between resource adequacy and environmental compliance. EPA has an excellent track record of establishing clean air protections that reduce harmful air pollution and benefit public health while preserving power companies’ ability to deliver reliable and affordable electricity. As EPA works to develop other Clean Air Act requirements for power plants, the Agency is committed to providing regulatory certainty and a long-term planning horizon that protects public health and communities, allows states, grid operators, and power companies to make informed investment and planning decisions, and preserves the ability of the industry to deliver reliable and affordable electricity.

EPA actively engages directly with the electricity sector in the course of our rulemakings, including system operators, state regulators, the Department of Energy (DOE), the Federal Energy Regulatory Commission (FERC), and other parties that have responsibility for ensuring reliability and affordability in the electric supply. Furthermore, federal agencies such as DOE and FERC participate in interagency reviews of rules before they are signed, and we regularly confer with other expert agencies outside the interagency review process. As one example of this engagement, EPA held meetings with states, multi-state groups, and reliability authorities to discuss the proposed Good Neighbor Plan for the 2015 ozone NAAQS. Initial meetings included nine states as well as NESCAUM, WRAP, MARAMA, LADCO, CenSARA, TCEQ, the EGU Workgroup, MISO and PJM. After the public comment period for the Good Neighbor Plan closed, EPA hosted a series of

meetings with all RTOs/ISOs and balancing authorities that submitted comment on the rule, including MISO, SPP, ERCOT, PJM, and balancing authorities in the Western and Southern U.S. to discuss reliability issues.

In response to comments received, EPA adopted several changes in the final Good Neighbor Plan to address reliability concerns, while still achieving the clean air and public health objectives of the Clean Air Act. The final rule:

- Provides greater compliance flexibility for power plants by deferring “backstop” emission rate requirements for plants that currently do not have state-of-the-art controls until no later than 2030.
- Enhances the availability of allowances during a period of relatively rapid fleet transition by allowing power plant owners and operators to “bank” allowances at a higher level through 2030.
- Provides greater certainty for grid operators and power companies by establishing a predictable minimum quantity of allowances available through 2029.

Additionally, in support of our work addressing reliability, DOE and EPA signed a Joint Memorandum of Understanding (MOU) on Interagency Communication and Consultation on Electric Reliability on March 9, 2023. This agreement provides a framework for both agencies to unlock the reliability advantages of the growing clean energy economy. It builds upon longstanding engagement from DOE and EPA with the power sector and further commits the agencies to routine and comprehensive communication about policies, programs, and activities regarding electric reliability. This includes sharing information and analysis, and ongoing monitoring and outreach to key stakeholders to proactively address reliability challenges.

2. Administrator Regan, on January 25, 2023, the Coal Creek Station, owned by Rainbow Energy Center, was informed of denial for their alternative liner application for the impoundment of coal combustion residuals (CCR). On April 4, 2023, I sent you a letter on the denial and requested you reconsider the decision given the site was independently analyzed and conservatively modeled with the results demonstrating the facility’s CCR liner is equally, if not more, protective of human health and the environment as the prescriptive liner.

- a. Do you commit to reviewing the letter I sent you?

EPA RESPONSE: Yes. The Agency received your letter, and we are currently reviewing it.

- b. Will you reconsider Coal Creek’s alternative liner application?

EPA RESPONSE: EPA has not yet taken final action with respect to the Coal Creek Station application to continue operating an unlined impoundment in compliance with the CCR rule. The application has been proposed to be denied because the Agency's analysis found that the application failed to demonstrate that the surface impoundments comply with the CCR regulation on critical environmental, health, and safety aspects such as groundwater monitoring, location restrictions, and contaminant data. EPA provided 60 days for the facility and other interested parties to comment on EPA's analysis. EPA will issue a final decision only after considering all of the information provided during the comment period in response to the proposal.

Senator Lummis

1. When EPA adopted federal coal combustion residual (CCR) regulations in 2015, it had little choice but to establish what is known as a "self-implementing" CCR regulatory program because it lacked the statutory authority to require compliance through either a state or federal permit program. Congress corrected this problem with the passage of the 2016 WIIN Act and authorized a federal permit program for CCR units in states that don't establish their own permit program. EPA issued a proposed federal permit program back in February of 2020. Since that time, Congress has provided EPA with a total of \$27 million to finalize and implement the federal permit program. This federal permit program is a critical piece for utilities complying with federal CCR regulations and an important part of protecting public health and the environment. I understand EPA currently plans to finalize this program by this July. Can you commit to sticking to that timeline for getting this permit program finalized?

EPA RESPONSE: The regulations to implement the federal permit program were proposed in 2020 and EPA is targeting the release of the final rule later this year.

- a. Can you provide details on what changes, if any, you expect to be made between the proposed and final rule?

EPA RESPONSE: We are currently reviewing the extensive public comments on the proposed rule and working to develop a final rule. EPA cannot provide a summary of any changes at this time as they are all still under development.

- b. How many full-time trained and qualified staff members has EPA committed to implementation of the federal permit program?

EPA RESPONSE: The FY 2024 President's Budget requests \$4.6 million, including 22.5 FTE, to provide sufficient staffing levels to implement the coal combustion residual federal permitting program.

- c. Will EPA commit to prioritizing issuance of individual permits on an expedited basis?

EPA RESPONSE: The FY 2024 President's Budget requests \$4.6 million, including 22.5 FTE, to provide sufficient staffing levels to implement the coal combustion residual federal permitting program.

- 2. Administrator Regan, in November 2022, a Government Accountability Office (GAO) report on EPA's administration of the Small Refinery Exemption program under the RFS found that "EPA has no policies or procedures for how it assesses petitions and makes exemption decisions. ... Consequently, agency decisions appear ad hoc, resulting in market uncertainty. This can harm small refineries and renewable fuel producers..."
 - a. Do you commit to implementing all of the recommendations in the GAO report, including establishing a transparent, consistent SRE process as Congress directed in the Energy Independence and Security Act of 2007? When will you implement the recommendations?
 - b. Do you commit to implementing the recommendations before finalizing additional RFS obligations on small refineries?
 - c. The report states that its analysis found that "small refineries have paid more on average for compliance credits than large refineries." Do you agree with this GAO finding?

EPA RESPONSE: As required by 31 U.S.C. § 720, EPA has submitted to the appropriate Congressional committees its final response letter documenting our concerns with GAO's November 2022 Final Report entitled, Renewable Fuel Standard: Actions Needed to Improve Decision-Making in the Small Refinery Exemption Program (GAO-23-104273 & GAO 23-105801). EPA has reviewed the Final GAO Report and strongly disagrees with its primary analysis, conclusions, and recommendations with respect to EPA's Small Refinery Exemption (SRE) program. EPA partially agrees with several other recommendations. We encourage you to read our final response letter, which describes the underlying economic data and analysis that are the basis of EPA's conclusions. Our final response letter is publicly available at <https://www.epa.gov/system/files/documents/2023-05/EPA-Response-to-Final-GAO-SRE-Report-Letter-to-House-and-Senate-Appropriations-Committees.pdf>.

Senator Ricketts

- 1. EPA has proposed volumes for advanced biofuel and biomass-based diesel into the future that are below what the industry is capable of producing today. This zero-growth scenario is inconsistent with credible market estimates on supply. It fails to acknowledge the expected growth of the renewable diesel capacity to approximately 6 billion gallons by 2026; and it fails to acknowledge the projects announced to help support the growing demand for biofuels like the \$6 billion investment in over 21 projects to increase crush capacity that are now in jeopardy as a result of the proposal. After promising an upward

trajectory for advanced biofuels – which have always been the goal of the RFS – why has the EPA proposed volumes for advanced biofuel and biomass-based diesel into the future that are below what the industry is producing today?

EPA RESPONSE: The Renewable Fuel Standard program can deliver not just environmental benefits but economic and energy security benefits as well. Biofuels can reduce greenhouse gas emissions from the transportation sector while providing farmers with significant economic opportunities. In December 2022, EPA issued proposed volumes for 2023-2025, including increases in the advanced biofuel standard based on our assessment of potential market growth over these years and taking into consideration all the factors required by the statute. We very much appreciate the considerable stakeholder input we have received—including those who commented in support of higher volumes of advanced biofuel and biomass-based diesel. We are taking it all into consideration as we develop the final rule, which we will do by June 14.

2. Sugarbeet producers in my home state of Nebraska will face serious economic losses because of the invasive weed, Palmer amaranth. There is no approved crop protection tool for use by sugarbeets for Palmer control registered in the U.S. I understand that the State of Nebraska has asked for emergency use of a product registered in Europe, metatriton. Sugarbeet producers in Nebraska will face serious economic losses if this chemistry is not approved. What is EPA's timeline for getting this product into the hand of farmers in my state to mitigate this emergency?

EPA RESPONSE: EPA understands the seriousness of the weed management issues facing sugar beet producers in Nebraska. In 2021, the Agency approved an emergency exemption for the use of acifluorfen to the state of Nebraska to address this pest problem. Metatriton is an unregistered pesticidal active ingredient in the United States and like all new pesticides, it requires extensive evaluation for EPA to make safety determinations. In this case, the EPA's review is underway, but is not far enough along to conclude safety and support its use in the near term. In addition, as of April 24, 2023, EPA has not received the additional toxicology information that was requested from the registrant, and as of April 24, 2023, the Agency also does not have residue data that are necessary to conduct a dietary assessment and set a time-limited tolerance (maximum allowable pesticide residue on food) for pesticide residues in sugar beets. Given the status of the EPA's review, EPA will not be able to grant an emergency exemption authorization for the 2023 growing season for metatriton because the Agency is at this time unable to determine that use of the pesticide will not pose unreasonable adverse effects to human health and the environment, or result in a reasonable certainty of no harm, as required by the Federal Insecticide, Fungicide, and Rodenticide Act and the Federal Food, Drug, and Cosmetic Act respectively. Although EPA cannot grant the 2023 request, EPA is working diligently with ADAMA, Western Sugar Cooperative, and the Nebraska Department of Agriculture to review and analyze additional data and information for the sugar beet use, specifically residue data, which may allow EPA to set time-limited tolerances under FFDCA. Therefore, EPA believes that a

determination regarding an emergency exemption for use of metatriton on sugar beets for the 2024 growing season may be a more realistic possibility, depending upon the results of the Agency's risk assessment once it receives the necessary data.

3. I am very concerned that in response to pressure from environmental groups, EPA has taken action on a class of products called organophosphates. In this process to revise your risk assessment, EPA is denying growers the ability to comment or review the assessment prior to it taking effect. This is a chilling effect of making the government less transparent as opposed to more. It is also striking because EPA has just put out a risk assessment of these products as recently as 2017 that did go through the proper regulatory process. This action is a significant departure from the due process that Congress expects of the agency. Why is the agency refusing to follow its own standards for transparency in the regulatory process?

EPA RESPONSE: In its effort to address risks from the organophosphates (OPs) to workers who work, mix, load, or apply OPs or conduct certain post-application activities (e.g., workers re-entering treated areas, weeding, hand harvesting, etc.), as well as bystanders (including farmworkers) who may be exposed to spray drift, EPA is taking accelerated and early action by making updated occupational and non-occupational spray drift risk assessments available to the public as they are completed, ensuring that our process is transparent. This is not the first time the Agency has taken steps to identify mitigation measures that can address significant risks outside the registration review process before the completion of all aspects of the re-evaluation process. In this case, the registration reviews for diazinon, ethoprop, tribufos and phosmet were not scheduled to be completed until 2025-2026. After recognizing that several uses of these four pesticides present significant human health risks, and in order to reduce these risks to pesticide handlers and bystanders in the nearer term, EPA began negotiations with the registrants on risks identified in the 2023 occupational and non-occupational spray drift exposure risk assessments. Stakeholders will have an opportunity to comment on registration review for these three cases during the next step of the process, when the proposed interim decisions are published for comment along with fully updated human health risk assessments.

4. I have severe concerns about how EPA's ESA workplan could affect production agriculture. Many of the mitigation measures proposed are well established Natural Resources Conservation Services (NRCS) Conservation Practice Standards (CPS). The NRCS programs are voluntary and incentive-based and are currently oversubscribed. EPA's actions effectively make voluntary measures mandatory. Are EPA and NRCS coordinating to ensure that farmers are compensated?

EPA RESPONSE: EPA is coordinately closely with USDA on the nexus between NRCS Conservation Practice Standards and EPA pesticide mitigation measures. For example, the two agencies held a meeting with over 50 representatives of agricultural organizations on May 12th on this issue. When EPA approves pesticide labeling with mitigation measures that mirror the NRCS practices, EPA is finding

those measures to be necessary under FIFRA. Doing so does not turn the NRCS programs from a voluntary to mandatory one: growers are still entirely free to choose whether to participate in those programs. Rather, EPA has adopted mitigation measures similar to NRCS practices in order to give growers measures that they are likely to be familiar with. EPA is in no way trying to change the NRCS programs or practices. Mandatory mitigations measures found on pesticide labeling must be followed. The Agency is also exploring how to allow growers already using NRCS practices to choose mitigation measures they are already using to comply with the label's mitigation requirements. EPA has heard from multiple agricultural stakeholders who have said that this would be a welcome development in the Agency's ESA implementation efforts.

Senator Sullivan

1. This past week, EPA released its annual Toxic Release Inventory (TRI). Unfortunately, the TRI does not distinguish between permitted activities and illegal, harmful releases. By not specifying the manner of release, the TRI mischaracterizes the harm to the public and frankly undermines the critical work regulators do. Going forward with next year's release of the TRI, will EPA develop a reporting system that accurately reflects the actual risks associated with different types of releases and focus on the entities that actually adversely impact human health and the environment, recognizing true impacts while prioritizing efforts to hold bad actors accountable?

EPA RESPONSE: Under section 313 of the *Emergency Planning and Community Right-to-Know Act*, EPA is required to make available to the public the information reported to the TRI by facilities subject to TRI reporting requirements. By statute, facilities with 10 or more full-time employees, in a covered industry sector, and that manufacture, process, or otherwise use listed chemicals above threshold are required to report releases among other information, and EPA is required to publish the quantities of TRI chemicals facilities released to air, water or land, regardless of whether such releases are adversely impacting human health or the environment. Additionally, EPA has the discretionary authority to extend TRI reporting requirements to specific facilities based on a chemical's toxicity, the facility's proximity to other facilities that release the chemical or to population centers, any history of chemical releases at the facility, or other factors the Administrator deems appropriate.

TRI reporting requirements are not based on facility permitting status nor on the requirements specified with permits. In general, the chemicals subject to TRI reporting are those that cause cancer or other chronic human health effects, significant adverse acute human health effects, and/or significant adverse environmental effects. EPA's statutory responsibility to make information available is not limited to the facilities whose emissions may be adversely impacting human health or the environment.

Information reported to TRI is predominately associated with normal production related activities; any emissions associated with accidental or non-routine activities are reported separately. The public can review these data reported to TRI, which includes the type of release reported (e.g., various methods of disposal to land, water, and air), other waste management methods (e.g., recycling) through several TRI online tools including the interactive TRI National Analysis report. Such information can be useful to the public whether or not the given data reported present exposure concerns for a particular data user.

EPA's TRI Program does not assess the risks of TRI chemicals when it publishes the information received on the chemicals. However, TRI provides useful information about quantities of chemicals released from reporting facilities, serving as an indicator of where further investigation may be warranted. TRI data alone, however, do not indicate whether or to what degree a person is exposed to these chemicals, nor does TRI include all the information necessary to answer questions about individuals' health risks from these chemicals.

The TRI Program has maintained an open dialogue with industry, including the National Mining Association (NMA), to better understand industrial operations and best explain and interpret the TRI information collected and published annually. Collaborations have resulted in the development of interactive diagrams, additional definitions, descriptions, and supplementary material to aid the public in adequate use of TRI data. The Program will continue to improve the collection of quality data and how such data is communicated to the public.

- a. How will the incorporation of PFAS into the TRI, as the EPA has now proposed, with PFAS toxic at such small levels, be ranked to show the public the true risk of their releases?

EPA RESPONSE: As required by law, EPA's TRI Program will continue to make available to the public the TRI information that facilities subject to TRI reporting are required to disclose to EPA. This includes information disclosed on the PFAS that are included on the TRI chemical list. EPA's TRI Program does not assess the risks of TRI chemicals when it publishes the information received on the chemicals. Other EPA programs may use TRI data when conducting risk evaluations on chemicals included on the TRI chemical list.

EPA's TRI National Analysis report includes a section titled "Chemical Profiles," in which EPA's TRI Program provides more detailed analysis of the TRI data disclosed on TRI chemicals that are of particular interest to the public, the EPA, lawmakers, and industry. PFAS are profiled in this section of the TRI National Analysis report.

2. The National Recycling Strategy aims to meet the national goal of raising the recycling rate to 50 percent by 2030. The Strategy requires EPA to implement objectives addressing markets for recycled materials, infrastructure improvements, confusion about what materials can be recycled, and standardized recycling definitions and measures. What is EPA doing to advance its plan for implementing the National Recycling Strategy?
 - a. What is EPA doing to ensure that this process is complementary to the national recycling strategy?

EPA RESPONSE: In November 2021, EPA published the *National Recycling Strategy: Part One of a Series on Building a Circular Economy for All*, the first in a series of strategies that outlines what is needed to improve recycling and help build a circular economy. The Strategy reflects the actions needed from across the value chain to create a stronger, more resilient domestic recycling system. EPA is using IJA funding to implement parts of the *National Recycling Strategy* through approximately \$140 million in grants to communities this year. These grants will improve solid waste management and recycling systems and infrastructure, increase recycling and composting rates, and improve consumer education and outreach on recycling materials, including food waste and plastics. On May 2, 2023, EPA released Part Two of the strategy series, which focuses on reducing plastic waste and is accepting public comments through June 16, 2023.⁶

In addition to awarding grants, EPA is issuing tools and reports to help communities improve recycling. For instance, the Model Recycling Program Toolkit released in November 2022 is an interactive repository of EPA and other materials that can help communities increase participation in recycling programs and reduce contamination in the recycling stream. Also, in 2023, EPA plans to release a Recycling Infrastructure and Market Opportunities Map which can help cities, states, and regions find end markets for their recycled commodities. The Map visually conveys material generation and recycling tonnages, recycling infrastructure, and end market opportunities across the U.S. As part of the FY 2024 President's Budget request, EPA requests \$12.6 million, including 10 additional FTE, for the Waste Minimization and Recycling Program and \$10 million, including 2 FTE, for the Recycling Infrastructure Program, which will assist EPA with implementation of the National Recycling Strategy, oversight of the Infrastructure Investment and Jobs Act grants, and management of recycling and circular economy practices.

3. EPA has enforced the Agency's "Clean Air Act Title II Vehicle and Engine Civil Penalty Policy" in an extremely heavy-handed manner. The primary goal of EPA's policy is "to ensure that civil administrative penalties are assessed in accordance with the Clean Air Act in a fair and consistent manner." However, since this policy was put in place, multiple small mechanic shops in Alaska have been the targets of questionable EPA enforcement

⁶ <https://www.federalregister.gov/documents/2023/05/02/2023-08970/draft-national-strategy-to-prevent-plastic-pollution-request-for-public-comment>.

actions. EPA has a history of oppressive tactics in Alaska, such as what happened in Chicken, Alaska, in 2013. What is EPA doing to ensure enforcement of the Clean Air Act is fair and consistent?

- a. How many small business mechanic shops did EPA raid for allegedly violating the Clean Air Act in 2022?
- b. Do you believe the EPA should prioritize working with these small business mechanic shops to promote voluntary compliance under the Clean Air Act?

EPA RESPONSE: EPA is committed to the fair and principled enforcement of our Nation's environmental laws, based on the law and the facts, to protect our communities from the harmful effects of pollution. Since it was established in FY 2020, our current National Enforcement Compliance Initiative (NECI) on Aftermarket Defeat Devices has been focused on stopping the manufacture, sale, and installation of defeat devices on vehicles and engines used on public roads as well as nonroad engines and vehicles in order to reduce air pollution and protect public health. Across the country, EPA conducts investigations of manufacturers, distributors, and sellers of these devices, which are used to render air pollution controls inoperable. Some of these investigations are the result of tips and complaints EPA receives about this prohibited activity. Promoting compliance through public outreach is an important component of our compliance initiative. EPA has given numerous presentations around the country, issued an enforcement alert to raise awareness of the Clean Air Act and the impacts of vehicle tampering, and has developed several resources to educate mechanics and others about what the Clean Air Act requires.

For more than 25 years, EPA has identified national enforcement priorities to focus enforcement and compliance assurance resources on the most serious environmental problems, including those that impact vulnerable and overburdened communities. The NECIs are an effective tool for focusing enforcement and compliance assurance on the most serious and widespread problems and play an important role in protecting overburdened and vulnerable communities. EPA works with our state and tribal partners to provide focused attention on these NECIs that play an important role in protecting human health and the environment. While we cannot discuss open criminal investigations, EPA's actions to hold intentional violators accountable in Alaska are part of that larger national effort to protect the health and air quality for all Americans.

Senator Wicker

1. Last summer, the City of Jackson was under a boil water advisory for nearly seven weeks. The situation worsened when the Pearl River flooded in August. This caused our capital city's two drinking water treatment plants to reach their breaking point. Water supply soon became a problem, and many residents were unable to flush their toilets or

take showers. This caused President Biden to declare an emergency following Governor Reeves' declaration of a state of emergency. I worked with the Mississippi congressional delegation to ensure funding was included in the year-end appropriations bill for this crisis. It is my understanding these funds have still not been distributed for the city's water infrastructure needs, in part because EPA is still reviewing intended workplans. Administrator Regan, you have visited our capital city several times since this crisis began. It is clear Jackson and its residents need help and access to clean drinking water. What is your agency's timeline for distributing these funds?

EPA RESPONSE: Thank you, Senator Wicker, for your leadership and this Committee's leadership to obtain \$600 million for the City of Jackson. This \$600 million will help ensure that the city has the resources necessary to stabilize and rebuild the city's water systems. EPA continues to coordinate with the state of Mississippi and the interim third-party manager and an initial award of \$115 million was made in May 2023.

2. Last November, an interim third-party manager was appointed to oversee the City of Jackson's drinking water system. The Stipulated Order that was approved by the U.S. District Court for the Southern District of Mississippi requires the third-party manager to submit quarterly status reports, which the public can access online. I appreciate this transparency and EPA's efforts to maintain communication with the city and the third-party manager. What additional oversight is EPA providing to ensure federal funds and resources are appropriately utilized?

EPA RESPONSE: In addition to the quarterly status reports, the stipulated order gives EPA an oversight role regarding proposed changes to the priority project list and its implementation schedule. EPA will also have a role through the grants process to ensure that the \$600 million in grant funds are spent in accordance with the appropriations statute and applicable federal laws and regulations.

3. On January 9, 2023, EPA and the U.S. Army Corps of Engineers released a Joint Memorandum of Collaboration outlining their commitment to identifying a flood control solution for the Yazoo Backwater Area. I am encouraged by this renewed commitment to resolving this environmental injustice. Additionally, the recent tornado in Rolling Fork was devastating for a community that is already hanging on by a thread. It is imperative that EPA and the Corps address the longstanding issue of flooding in this region so they can confidently rebuild. What steps are you taking to ensure your agency follows the timeline included in the Joint Memorandum of Collaboration?

EPA RESPONSE: The Army and EPA have worked together to deliver a recommended preferred approach to address the Yazoo backwater flooding. Building on the engagements in February to hear from the community and stakeholders regarding impacts and desired outcomes, the agencies hosted another engagement session to discuss the recommended preferred approach with the community and stakeholders on May 4th & 5th in Vicksburg, Mississippi. While in Mississippi, Army, EPA, Fish & Wildlife Service, Department of Transportation,

Federal Emergency Management Agency and the United States Department of Agriculture also hosted a session to provide the community with information on resource opportunities in response to the recent tornado and flooding. Army and EPA are considering the feedback from the May engagement to inform delivery of a final recommended preferred approach by the end of June.

Senator CARPER. Thank you, Mr. Regan.

Let me ask for the record, the IRA, Inflation Reduction Act, is it fully paid for? Is it fully offset? Or does it increase our deficit?

Mr. REGAN. It is fully paid for.

Senator CARPER. It is fully paid for. Imagine that.

Are we losing jobs in this country over the last couple of years or gaining jobs, any idea?

Mr. REGAN. We are gaining significant jobs.

Senator CARPER. If I told you the number is 10.7 million jobs that have been created in the last 2+ years, would you believe that? Well, it is true. The unemployment rate, what is the unemployment rate today? It is 3.4, which I think, the last time I checked, is the lowest it has been in how many years? A long time. I think that is a good thing for us to keep in mind as we take up these issues.

I say, and my colleagues get tired of hearing me say this, it is possible to do good things for this planet, clean air, clean water, climate change, and create jobs. We are doing it, and we can continue to do it. We need to do it in a fiscally responsible way. I will get off my soapbox.

In his budget, President Biden has clearly prioritized protecting public health and the environment. EPA needs more people and additional funding to do the critically important, lifesaving and planet saving work we are asking you to do. This includes reducing the greenhouse gas pollution that is driving climate disasters, working with industry to support a host of new, well paying jobs and clean energy industries, and ensuring that EPA can effectively respond to chemical disasters like the one that you visited in East Palestine, Ohio, and Darlington Township, Pennsylvania.

Mr. Regan, how would the additional people and funding recommended by the President in his budget help the agency you lead fulfill your mission to protect public health and the environment with an eye toward reducing emissions, promoting economic growth, and increasing resiliency to natural and man made disasters?

Mr. REGAN. Thank you, Chairman Carper. I want to start by thanking you and this Committee for your leadership in passing the Omnibus Bill, the Bipartisan Infrastructure Law as well. These pieces of legislation have helped the agency move the ball forward to invest in America.

The town of Ellenboro, West Virginia, has received \$1.5 million to address aging infrastructure, the town of Temple, Oklahoma, approximately \$1 million in loan forgiveness to upgrade its water treatment facility, and Chairman, in your own city of Wilmington, Delaware, expected to receive a half a million dollars to upgrade its de-watering process to remove PFAS in the wastewater treatment facilities.

In order for us to continue the great work like this, we need additional resources to continue investing, and that is included in the proposed budget. Additional funds would invest in our infrastructure more than \$4 billion to upgrade drinking water and wastewater infrastructure for all people. We do know that we received a lot of resources through the Bipartisan Infrastructure Law for

water infrastructure, but we also know that those resources pale in comparison to the size of the problem.

Once we move beyond clean and safe drinking water, additionally in the 2024 budget request, it would enable EPA to fully realize the promise of the bipartisan TSCA law that this Committee wrote, getting protective chemical safety rules on the book. Also, getting the innovative new chemistries needed to propel the semiconductor, automotive, and battery sectors forward is extremely important for us. Last year's appropriations helped, but this year we needed a little bit more.

Senator CARPER. All right, thank you.

My next question is, environmental justice communities, front line communities, and disadvantaged communities are disproportionately affected, as you know, by environmental hazards. I am a firm believer, I know you are as well, in something called the Golden Rule. I think if you asked the question of everyone on this panel, they would say, we are all in favor of the Golden Rule, treat others the way we want to be treated. We are in the same situation.

That means we must ensure fair and equitable treatment for these communities, too. I know that you share a similar desire to assist and uplift those communities that have been affected by toxic pollution. Here is my question: How does this budget proposal do, what does it do, to help the communities that need it the most, including those economically volatile and environmental justice communities?

Mr. REGAN. Senator, I believe in the Golden Rule, and I believe that rising tides lift all boats. I would like to start by saying 85 percent of this budget request goes to States and Tribes.

Senator CARPER. Say that again.

Mr. REGAN. Eighty-five percent of the budget request goes to our States, our Tribes, our local governments, which as a former State regulator, I believe that our States and communities know better than the Federal Government, and they have the solutions.

I have traveled all across the country, from the backyards of Jackson, Mississippi, to Mandan, North Dakota, to McDowell County, West Virginia. I have heard the stories; I have seen with my own eyes the struggle many families have for clean air and clean water.

This new, national program and these resources create a laser focused opportunity on environmental justice. We can do that while providing a clear point of accountability for both our internal and external stakeholders in coordinating this EJ work.

So we are excited to see that many States are actually revising the definitions of disadvantaged communities for the State Revolving Loan Fund programs as a result of our guidance. We are excited to see that our State, tribal, and local partners are embracing these resources to create equity in all of our communities.

So this budget does request additional resources so that we have the capacity to ensure that every person in this country has access to clean air and clean water.

Senator CARPER. My time has almost expired. I am going to yield to Senator Capito, who has stepped out of the room for just a moment. Who would be next?

Senator Cramer, would you mind?

Senator CRAMER. Oh, if I must.

[Laughter.]

Senator CRAMER. I am happy to, thank you.

I am afraid I might jump ahead of Senator Capito, even in the questions, on my first question. She brought it up in her opening statement.

First of all, Administrator, thank you for being here. Thank you again for your trip to North Dakota. As I mentioned to Assistant Administrator Fox last week, it was a fun day. I hope you found it useful.

I know that you implemented some of the things you heard from our landowners and farmers concerning Waters of the United States, and while we think it still comes up way, way short, you were there. Showing up matters. You did listen, and we appreciate that a lot, and continue to look forward to working with you more.

The Chairman said that we asked the EPA to do more with less. I am asking you to do less with less. He talked about a tale of two cities, I am talking about a tale of two philosophies. And I am going to start by challenging you a little bit on what I think Senator Capito probably wants to talk to you about as well, and that is why the EPA went ahead with the WOTUS rule, a durable WOTUS rule, it is anything but durable considering we are in the middle of a case in the Supreme Court, the Sackett case, and now awaiting that ruling.

This durable word was of course to prevent the ping-ponging of the rule. Twenty-four States have already challenged your new rule. Wouldn't it have made sense to just wait until after the EPA, and maybe have a more durable rule, and then free up all that time and all those resources to do something high priority, perhaps?

Mr. REGAN. Senator Cramer, I think maybe my count is right now we have two States that have challenged the rule, maybe more will join. When I embarked upon my listening tour, I think farmers and ranchers asked for certainty and durability, recognizing that the Trump Navigable Waters rule had been vacated and that there was no Obama Clean Water rule in place, which means we were faced with a pre-2015 scenario.

So we worked really hard. We held regional listening sessions all across the country, went through a very thorough regulatory process. Basically, we looked at the pre-2015 regulation and what we did was we codified two Supreme Court rulings post-2015, and then in this rule I think we threaded a very good needle. What we did was codified over eight exemptions that were requested by the ranching and farming community, in addition to providing this durability or this certainty to move forward.

Now, we recognize that the Sackett case will have some impact on the rule. But what we didn't want to do was wait until after June, wait for the Supreme Court, and then start a 2 year process which would have left farmers and ranchers in limbo.

Senator CRAMER. All right. We are going to disagree on that, for sure. I don't want to get into the details of WOTUS right now, because I do want to move on.

You said 85 percent of the money in the IRA for EPA goes to States or something to that effect. The authority rests with States, that is the area where I am most concerned, with regard to another Supreme Court ruling, of course, on the Clean Air Act ruling, *West Virginia v. EPA*.

I worry that the EPA is still presuming authority that it doesn't have. After that ruling, and I will be real specific, in the IRA, there is \$45 million specifically for perhaps using within Section 111, which is what of course *West Virginia v. EPA* was all about, to engage in even more Clean Air Act intervention, if you will, on the part of the EPA.

Is there anything in the IRA in addition to the \$45 million that gives the EPA this authority to go at the source and to fuel change, or to suggest fuel changing or require fuel changing for generation? Is there new authority that you didn't have before?

Mr. REGAN. No, what I would say is, the Supreme Court made it clear that it was not permissible for EPA to base emissions guidelines under Section 111 on generation shifting.

Senator CRAMER. Right.

Mr. REGAN. And so the court's decision did not draw any conclusions regarding any other control measures, but it was specific there.

So we are designing, we have an obligation, the law requires that we put forward a regulation around greenhouse gas emissions. We are following the Supreme Court's ruling, we are following our Clean Air Act authority. We have engaged extensively with the power sector on this rule.

So I can assure you that we are going to stay well within the guardrails. But our rule will set the structure for the opportunities in this country, especially those that have come about because of the Inflation Reduction Act.

Senator CRAMER. I do prefer States' authority, of course. I think the Supreme Court does as well.

I was going to ask next about the methane rule, because I think it is similar. It is another one of those things where State primacy is being dictated or overridden by the EPA, perhaps. As I always like to say, please don't impose the Federal Government's mediocrity on my State's excellence. They just do it so much better. And it doesn't cost as much.

Thank you, Mr. Chairman.

Senator CARPER. Thanks, Senator Cramer.

A couple of unanimous consent requests. I ask unanimous consent to submit for the record recent economic data from the U.S. Bureau of Labor Statistics, which show that our economy added, this last month, in February, another 311,000 jobs, 311,000 new jobs, surpassing economic estimates which had called for about 200,000.

The unemployment rate remains near an historic low, just 3 and a half percent. Compared to what? Well, that is the lowest rate on unemployment in this country in almost, ready for this, 54 years. Fifty-four years.

I also ask unanimous consent to submit for the record a December 20, 2022, fact sheet from the EPA that confirms its new WOTUS rule does not impact longstanding permitting exemptions

provided in the Clean Water Act for agriculture activities. The Clean Water Act has exempted normal, ongoing farming activities from permitting since 1977, and President Biden's WOTUS rule does not change that. This fact sheet explains the new rule actually includes new exclusions long sought by the agriculture community, including a definition for prior converted crop land and exclusions for certain ditches of irrigation, areas and artificial lakes and ponds.

With that having been said, I am happy to yield to my——

Senator WICKER. Reserving the right to object. Do either of those documents speak to the inflation rate that consumers are having to pay for products like eggs and groceries and agricultural products?

Senator CARPER. I am going to check, and I will get back to you right after this hearing.

Senator WICKER. I withdraw my reservation.

Senator CARPER. Thanks so much.

[The referenced information follows:]

NEWS RELEASE

BUREAU OF LABOR STATISTICS

U. S. DEPARTMENT OF LABOR



Transmission of material in this news release is embargoed until
8:30 a.m. (ET) Friday, March 10, 2023

USDL-23-0436

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THE EMPLOYMENT SITUATION — FEBRUARY 2023

Total **nonfarm payroll employment** rose by 311,000 in February, and the **unemployment rate** edged up to 3.6 percent, the U.S. Bureau of Labor Statistics reported today. Notable job gains occurred in leisure and hospitality, retail trade, government, and health care. Employment declined in information and in transportation and warehousing.

Chart 1. Unemployment rate, seasonally adjusted, February 2021 – February 2023

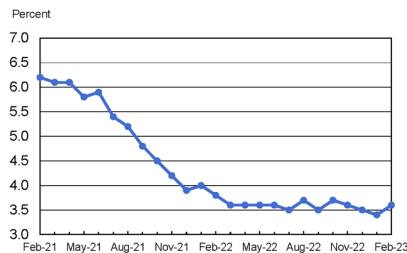
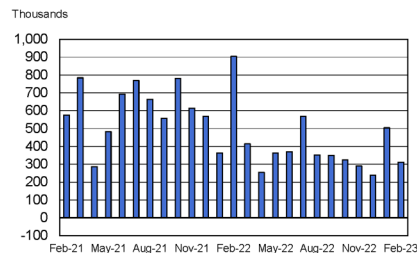


Chart 2. Nonfarm payroll employment over-the-month change, seasonally adjusted, February 2021 – February 2023



This news release presents statistics from two monthly surveys. The household survey measures labor force status, including unemployment, by demographic characteristics. The establishment survey measures nonfarm employment, hours, and earnings by industry. For more information about the concepts and statistical methodology used in these two surveys, see the Technical Note.

Household Survey Data

Both the **unemployment rate**, at 3.6 percent, and the number of **unemployed persons**, at 5.9 million, edged up in February. These measures have shown little net movement since early 2022. (See table A-1.)

Among the **major worker groups**, the unemployment rate for Hispanics (5.3 percent) increased in February. The unemployment rates for adult men (3.3 percent), adult women (3.2 percent), teenagers (11.1 percent), Whites (3.2 percent), Blacks (5.7 percent), and Asians (3.4 percent) changed little over the month. (See tables A-1, A-2, and A-3.)

The number of **job losers and persons who completed temporary jobs** increased by 223,000 in February to 2.8 million. (See table A-11.)

The number of persons **jobless less than 5 weeks** increased by 343,000 to 2.3 million in February, offsetting a decrease in the prior month. The number of **long-term unemployed** (those jobless for 27 weeks or more), at 1.1 million, changed little in February and accounted for 17.6 percent of the total unemployed. (See table A-12.)

In February, the **labor force participation rate** was little changed at 62.5 percent, and the **employment-population ratio** held at 60.2 percent. These measures have shown little net change since early 2022 and remain below their pre-pandemic February 2020 levels (63.3 percent and 61.1 percent, respectively). (See table A-1.)

The number of persons employed **part time for economic reasons**, at 4.1 million, was essentially unchanged in February. These individuals, who would have preferred full-time employment, were working part time because their hours had been reduced or they were unable to find full-time jobs. (See table A-8.)

The number of persons **not in the labor force who currently want a job** was little changed at 5.1 million in February. These individuals were not counted as unemployed because they were not actively looking for work during the 4 weeks preceding the survey or were unavailable to take a job. (See table A-1.)

Among those not in the labor force who wanted a job, the number of persons **marginally attached to the labor force** was little changed at 1.4 million in February. These individuals wanted and were available for work and had looked for a job sometime in the prior 12 months but had not looked for work in the 4 weeks preceding the survey. The number of **discouraged workers**, a subset of the marginally attached who believed that no jobs were available for them, also changed little over the month at 363,000. (See Summary table A.)

Establishment Survey Data

Total **nonfarm payroll employment** increased by 311,000 in February, compared with the average monthly gain of 343,000 over the prior 6 months. In February, notable job gains occurred in leisure and hospitality, retail trade, government, and health care. Employment declined in information and in transportation and warehousing. (See table B-1.)

Leisure and hospitality added 105,000 jobs in February, similar to the average monthly gain of 91,000 over the prior 6 months. Food services and drinking places added 70,000 jobs in February, and employment continued to trend up in accommodation (+14,000). Employment in leisure and hospitality is below its pre-pandemic February 2020 level by 410,000, or 2.4 percent.

Employment in **retail trade** rose by 50,000 in February, reflecting a gain in general merchandise retailers (+39,000). Retail trade employment is little changed on net over the year.

Government employment increased by 46,000 in February, about the same as the average monthly gain of 44,000 over the prior 6 months. Employment in local government continued to trend up in February (+37,000). Overall, employment in government is below its pre-pandemic February 2020 level by 376,000, or 1.6 percent.

Employment in **professional and business services** continued to trend up in February (+45,000), with a gain of 12,000 in management, scientific, and technical consulting services. Employment in professional and business services had increased by an average of 35,000 per month over the prior 6 months.

Health care added 44,000 jobs in February, compared with the average monthly increase of 54,000 over the prior 6 months. In February, job growth occurred in hospitals (+19,000) and in nursing and residential care facilities (+14,000).

Construction employment grew by 24,000 in February, in line with the average monthly growth of 20,000 over the prior 6 months.

Employment in **social assistance** rose by 19,000 in February, similar to the average monthly gain of 22,000 over the prior 6 months.

In February, the **information** industry lost 25,000 jobs. Employment continued to trend down in motion picture and sound recording industries (-9,000) and in telecommunications (-3,000). Employment in information has decreased by 54,000 since November 2022.

Transportation and warehousing lost 22,000 jobs in February, including 9,000 in truck transportation. Employment in transportation and warehousing is down by 42,000 since October 2022.

Employment showed little change over the month in other major industries, including **mining, quarrying, and oil and gas extraction; manufacturing; wholesale trade; financial activities; and other services**.

In February, **average hourly earnings for all employees** on private nonfarm payrolls rose by 8 cents, or 0.2 percent, to \$33.09. Over the past 12 months, average hourly earnings have increased by 4.6 percent. In February, average hourly earnings of private-sector **production and nonsupervisory employees** rose by 13 cents, or 0.5 percent, to \$28.42. (See tables B-3 and B-8.)

The **average workweek for all employees** on private nonfarm payrolls edged down by 0.1 hour to 34.5 hours in February. In manufacturing, the average workweek edged down by 0.2 hour to 40.3 hours, and overtime edged down by 0.1 hour to 3.0 hours. The average workweek for **production and nonsupervisory employees** on private nonfarm payrolls decreased by 0.2 hour to 33.9 hours. (See tables B-2 and B-7.)

The change in total nonfarm payroll employment for December was revised down by 21,000, from +260,000 to +239,000, and the change for January was revised down by 13,000, from +517,000 to +504,000. With these revisions, employment gains in December and January combined were 34,000 lower than previously reported. (Monthly revisions result from additional reports received from

businesses and government agencies since the last published estimates and from the recalculation of seasonal factors.)

The Employment Situation for March is scheduled to be released on Friday, April 7, 2023, at 8:30 a.m. (ET).

HOUSEHOLD DATA
Summary table A. Household data, seasonally adjusted
 [Numbers in thousands]

Category	Feb. 2022	Dec. 2022	Jan. 2023	Feb. 2023	Change from: Jan. 2023- Feb. 2023
Employment status					
Civilian noninstitutional population.....	263,324	264,844	265,962	266,112	150
Civilian labor force.....	163,862	164,966	165,832	166,251	419
Participation rate.....	62.2	62.3	62.4	62.5	0.1
Employed.....	157,590	159,244	160,138	160,315	177
Employment-population ratio.....	59.8	60.1	60.2	60.2	0.0
Unemployed.....	6,272	5,722	5,694	5,936	242
Unemployment rate.....	3.8	3.5	3.4	3.6	0.2
Not in labor force.....	99,463	99,878	100,130	99,861	-269
Unemployment rates					
Total, 16 years and over.....	3.8	3.5	3.4	3.6	0.2
Adult men (20 years and over).....	3.5	3.1	3.2	3.3	0.1
Adult women (20 years and over).....	3.6	3.2	3.1	3.2	0.1
Teenagers (16 to 19 years).....	10.3	10.4	10.3	11.1	0.8
White.....	3.3	3.0	3.1	3.2	0.1
Black or African American.....	6.6	5.7	5.4	5.7	0.3
Asian.....	3.0	2.4	2.8	3.4	0.6
Hispanic or Latino ethnicity.....	4.5	4.1	4.5	5.3	0.8
Total, 25 years and over.....	3.2	2.8	2.8	2.9	0.1
Less than a high school diploma.....	4.5	5.0	4.5	5.8	1.3
High school graduates, no college.....	4.4	3.6	3.7	3.6	-0.1
Some college or associate degree.....	3.7	2.9	2.9	3.2	0.3
Bachelor's degree and higher.....	2.2	1.9	2.0	2.0	0.0
Reason for unemployment					
Job losers and persons who completed temporary jobs.....	3,004	2,629	2,529	2,752	223
Job leavers.....	964	825	884	891	7
Reentrants.....	1,971	1,767	1,817	1,847	30
New entrants.....	429	497	531	515	-16
Duration of unemployment					
Less than 5 weeks.....	2,142	2,233	1,946	2,289	343
5 to 14 weeks.....	1,803	1,639	1,785	1,845	60
15 to 26 weeks.....	726	826	890	805	-85
27 weeks and over.....	1,691	1,069	1,111	1,057	-54
Employed persons at work part time					
Part time for economic reasons.....	4,137	3,878	4,050	4,067	17
Slack work or business conditions.....	2,726	2,648	2,685	2,840	155
Could only find part-time work.....	1,061	911	999	859	-140
Part time for noneconomic reasons.....	20,706	21,628	22,083	21,856	-227
Persons not in the labor force					
Marginally attached to the labor force.....	1,477	1,260	1,354	1,396	42
Discouraged workers.....	392	410	342	363	21

NOTE: Persons whose ethnicity is identified as Hispanic or Latino may be of any race. Detail for the seasonally adjusted data shown in this table will not necessarily add to totals because of the independent seasonal adjustment of the various series. Updated population controls are introduced annually with the release of January data.

ESTABLISHMENT DATA
Summary table B. Establishment data, seasonally adjusted

Category	Feb. 2022	Dec. 2022	Jan. 2023 ^p	Feb. 2023 ^p
EMPLOYMENT BY SELECTED INDUSTRY (Over-the-month change, in thousands)				
Total nonfarm.....	904	239	504	311
Total private.....	897	232	386	265
Goods-producing.....	121	36	51	20
Mining and logging.....	5	4	3	0
Construction.....	79	26	35	24
Manufacturing.....	37	6	13	-4
Durable goods ¹	10	23	-1	0
Motor vehicles and parts.....	-23.9	9.5	-5.1	0.2
Nondurable goods.....	27	-17	14	-4
Private service-providing.....	776	196	335	245
Wholesale trade.....	27.3	9.6	8.9	11.1
Retail trade.....	168.8	26.7	33.9	50.1
Transportation and warehousing.....	74.1	0.3	16.3	-21.5
Utilities.....	1.0	-0.7	-2.1	-1.1
Information.....	7	-9	-20	-25
Financial activities.....	41	4	5	-1
Professional and business services ¹	142	23	53	45
Temporary help services.....	57.4	-55.0	15.3	6.8
Private education and health services ¹	109	71	107	74
Health care and social assistance.....	95.8	73.1	75.6	62.8
Leisure and hospitality.....	162	58	114	105
Other services.....	43	13	19	9
Government.....	7	7	118	46
(3-month average change, in thousands)				
Total nonfarm.....	612	284	344	351
Total private.....	598	253	282	294
WOMEN AND PRODUCTION AND NONSUPERVISORY EMPLOYEES AS A PERCENT OF ALL EMPLOYEES²				
Total nonfarm women employees.....	49.7	49.8	49.8	49.8
Total private women employees.....	48.2	48.4	48.4	48.4
Total private production and nonsupervisory employees.....	81.5	81.3	81.3	81.3
HOURS AND EARNINGS ALL EMPLOYEES				
Total private				
Average weekly hours.....	34.7	34.4	34.6	34.5
Average hourly earnings.....	\$31.63	\$32.92	\$33.01	\$33.09
Average weekly earnings.....	\$1,097.56	\$1,132.45	\$1,142.15	\$1,141.61
Index of aggregate weekly hours (2007=100) ³	112.3	114.2	115.2	115.1
Over-the-month percent change.....	1.0	-0.1	0.9	-0.1
Index of aggregate weekly payrolls (2007=100) ⁴	169.8	179.7	181.8	182.0
Over-the-month percent change.....	1.0	0.3	1.2	0.1
DIFFUSION INDEX (Over 1-month span)⁵				
Total private (250 industries).....	84.6	64.0	66.0	56.0
Manufacturing (72 industries).....	84.0	52.8	51.4	47.2

¹ Includes other industries, not shown separately.

² Data relate to production employees in mining and logging and manufacturing, construction employees in construction, and nonsupervisory employees in the service-providing industries.

³ The indexes of aggregate weekly hours are calculated by dividing the current month's estimates of aggregate hours by the corresponding annual average aggregate hours.

⁴ The indexes of aggregate weekly payrolls are calculated by dividing the current month's estimates of aggregate weekly payrolls by the corresponding annual average aggregate weekly payrolls.

⁵ Figures are the percent of industries with employment increasing plus one-half of the industries with unchanged employment, where 50 percent indicates an equal balance between industries with increasing and decreasing employment.

^p Preliminary

NOTE: Data have been revised to reflect March 2022 benchmark levels and updated seasonal adjustment factors.

Frequently Asked Questions about Employment and Unemployment Estimates

1. Why are there two monthly measures of employment?

The household survey and establishment survey both produce sample-based estimates of employment, and both have strengths and limitations. The establishment survey employment series has a smaller margin of error on the measurement of month-to-month change than the household survey because of its much larger sample size. An over-the-month employment change of about 130,000 is statistically significant in the establishment survey, while the threshold for a statistically significant change in the household survey is about 600,000. However, the household survey has a more expansive scope than the establishment survey because it includes self-employed workers whose businesses are unincorporated, unpaid family workers, agricultural workers, and private household workers, who are excluded by the establishment survey. The household survey also provides estimates of employment for demographic groups. For more information on the differences between the two surveys, please visit www.bls.gov/web/empsit/ces_cps_trends.htm.

2. Are undocumented immigrants counted in the surveys?

It is likely that both surveys include at least some undocumented immigrants. However, neither the establishment nor the household survey is designed to identify the legal status of workers. Therefore, it is not possible to determine how many are counted in either survey. The establishment survey does not collect data on the legal status of workers. The household survey does include questions which identify the foreign and native born, but it does not include questions about the legal status of the foreign born. Data on the foreign and native born are published each month in table A-7 of The Employment Situation news release.

3. Why does the establishment survey have revisions?

The establishment survey revises published estimates to improve its data series by incorporating additional information that was not available at the time of the initial publication of the estimates. The establishment survey revises its initial monthly estimates twice, in the immediately succeeding 2 months, to incorporate additional sample receipts from respondents in the survey and recalculated seasonal adjustment factors. For more information on the monthly revisions, please visit www.bls.gov/web/empsit/cestn.htm#section7.

On an annual basis, the establishment survey incorporates a benchmark revision that re-anchors estimates to nearly complete employment counts available from unemployment insurance tax records. The benchmark helps to control for sampling and modeling errors in the estimates. For more information on the annual benchmark revision, please visit www.bls.gov/web/empsit/cesbmt.htm.

4. Does the establishment survey sample include small firms?

Yes; about 40 percent of the establishment survey sample is comprised of business establishments with fewer than 20 employees. The establishment survey sample is designed to maximize the reliability of the statewide total nonfarm employment estimate; firms from all states, size classes, and industries are appropriately sampled to achieve that goal.

5. Does the establishment survey account for employment from new businesses?

Yes; monthly establishment survey estimates include an adjustment to account for the net employment change generated by business births and deaths. The adjustment comes from an econometric model that forecasts the monthly net jobs impact of business births and deaths based on the actual past values of the net impact that can be observed with a lag from the Quarterly Census of Employment and Wages. The establishment survey uses modeling rather than sampling for this purpose because the survey is not immediately able to bring new businesses into the sample. There is an unavoidable lag between the birth of a new firm and its appearance on the sampling frame and availability for selection. BLS adds new businesses to the survey twice a year.

6. Is the count of unemployed persons limited to just those people receiving unemployment insurance benefits?

No; the estimate of unemployment is based on a monthly sample survey of households. All persons who are without jobs and are actively seeking and available to work are included among the unemployed. (People on temporary layoff are included even if they do not actively seek work.) There is no requirement or question relating to unemployment insurance benefits in the monthly survey.

7. Does the official unemployment rate exclude people who want a job but are not currently looking for work?

Yes; however, there are separate estimates of persons outside the labor force who want a job, including those who are not currently looking because they believe no jobs are available (discouraged workers). In addition, alternative measures of labor underutilization (some of which include discouraged workers and other groups not officially counted as unemployed) are published each month in table A-15 of The Employment Situation news release. For more information about these alternative measures, please visit www.bls.gov/cps/lfcharacteristics.htm#altmeasures.

8. How can unusually severe weather affect employment and hours estimates?

In the establishment survey, the reference period is the pay period that includes the 12th of the month. Unusually severe weather is more likely to have an impact on average weekly hours than on employment. Average weekly hours are estimated for paid time during the pay period, including pay for holidays, sick leave, or other time off. The impact of severe weather on hours estimates typically, but not always, results in a reduction in average weekly hours. For example, some employees may be off work for part of the pay period and not receive pay for the time missed, while some workers, such as those dealing with cleanup or repair, may work extra hours.

Typically, it is not possible to precisely quantify the effect of extreme weather on payroll employment estimates. In order for severe weather conditions to reduce employment estimates, employees have to be off work without pay for the entire pay period. Employees who receive pay for any part of the pay period, even 1 hour, are counted in the payroll employment figures. For more information on how often employees are paid, please visit www.bls.gov/ces/publications/length-pay-period.htm.

In the household survey, the reference period is generally the calendar week that includes the 12th of the month. Persons who miss the entire week's work for weather-related events are counted as employed whether or not they are paid for the time off. The household survey collects data on the number of persons who had a job but were not at work due to bad weather. It also provides a measure of the number of persons who usually work full time but had reduced hours due to bad weather. Current and historical data are available on the household survey's most requested statistics page, please visit data.bls.gov/cgi-bin/survey/most?ln.

Technical Note

This news release presents statistics from two major surveys, the Current Population Survey (CPS; household survey) and the Current Employment Statistics survey (CES; establishment survey). The household survey provides information on the labor force, employment, and unemployment that appears in the "A" tables, marked HOUSEHOLD DATA. It is a sample survey of about 60,000 eligible households conducted by the U.S. Census Bureau for the U.S. Bureau of Labor Statistics (BLS).

The establishment survey provides information on employment, hours, and earnings of employees on nonfarm payrolls; the data appear in the "B" tables, marked ESTABLISHMENT DATA. BLS collects these data each month from the payroll records of a sample of nonagricultural business establishments. Each month the CES program surveys about 122,000 businesses and government agencies, representing approximately 666,000 individual worksites, in order to provide detailed industry data on employment, hours, and earnings of workers on nonfarm payrolls. The active sample includes approximately one-third of all nonfarm payroll jobs.

For both surveys, the data for a given month relate to a particular week or pay period. In the household survey, the reference period is generally the calendar week that contains the 12th day of the month. In the establishment survey, the reference period is the pay period including the 12th, which may or may not correspond directly to the calendar week.

Coverage, definitions, and differences between surveys

Household survey. The sample is selected to reflect the entire civilian noninstitutional population. Based on responses to a series of questions on work and job search activities, each person 16 years and over in a sample household is classified as employed, unemployed, or not in the labor force.

People are classified as *employed* if they did any work at all as paid employees during the reference week; worked in their own business, profession, or on their own farm; or worked without pay at least 15 hours in a family business or farm. People are also counted as employed if they were temporarily absent from their jobs because of illness, bad weather, vacation, labor-management disputes, or personal reasons.

People are classified as *unemployed* if they meet all of the following criteria: they had no employment during the reference week; they were available for work at that time; and they made specific active efforts to find employment sometime during the 4-week period ending with the reference week. Persons laid off from a job and expecting recall need not be looking for work to be counted as unemployed. The unemployment data derived from the household survey in no way depend upon the eligibility for or receipt of unemployment insurance benefits.

The *civilian labor force* is the sum of employed and unemployed persons. Those persons not classified as employed or unemployed are *not in the labor force*. The

unemployment rate is the number unemployed as a percent of the labor force. The *labor force participation rate* is the labor force as a percent of the population, and the *employment-population ratio* is the employed as a percent of the population. Additional information about the household survey can be found at www.bls.gov/cps/documentation.htm.

Establishment survey. The sample establishments are drawn from private nonfarm businesses such as factories, offices, and stores, as well as from federal, state, and local government entities. *Employees on nonfarm payrolls* are those who worked or received pay for any part of the reference pay period, including persons on paid leave. Persons are counted in each job they hold. *Hours and earnings* data are produced for the private sector for all employees and for production and nonsupervisory employees. *Production and nonsupervisory* employees are defined as production and related employees in manufacturing and mining and logging, construction workers in construction, and non-supervisory employees in private service-providing industries.

Industries are classified on the basis of an establishment's principal activity in accordance with the 2022 version of the North American Industry Classification System. Additional information about the establishment survey can be found at www.bls.gov/ces/.

Differences in employment estimates. The numerous conceptual and methodological differences between the household and establishment surveys result in important distinctions in the employment estimates derived from the surveys. Among these are:

- The household survey includes agricultural workers, self-employed workers whose businesses are unincorporated, unpaid family workers, and private household workers among the employed. These groups are excluded from the establishment survey.
- The household survey includes people on unpaid leave among the employed. The establishment survey does not.
- The household survey is limited to workers 16 years of age and older. The establishment survey is not limited by age.
- The household survey has no duplication of individuals, because individuals are counted only once, even if they hold more than one job. In the establishment survey, employees working at more than one job and thus appearing on more than one payroll are counted separately for each appearance.

Seasonal adjustment

Over the course of a year, the size of the nation's labor force and the levels of employment and unemployment undergo regularly occurring fluctuations. These events may result from seasonal changes in weather, major holidays, and the opening and closing of schools. The effect of such seasonal variation can be very large.

Because these seasonal events follow a more or less regular pattern each year, their influence on the level of a series can be tempered by adjusting for regular seasonal variation. These adjustments make nonseasonal developments, such as declines in employment or increases in the participation of women in the labor force, easier to spot. For example, in the household survey, the large number of youth entering the labor force each June is likely to obscure any other changes that have taken place relative to May, making it difficult to determine if the level of economic activity has risen or declined. Similarly, in the establishment survey, payroll employment in education declines by about 20 percent at the end of the spring term and later rises with the start of the fall term, obscuring the underlying employment trends in the industry. Because seasonal employment changes at the end and beginning of the school year can be estimated, the statistics can be adjusted to make underlying employment patterns more discernable. The seasonally adjusted figures provide a more useful tool with which to analyze changes in month-to-month economic activity.

Many seasonally adjusted series are independently adjusted in both the household and establishment surveys. However, the adjusted series for many major estimates, such as total payroll employment, employment in most major sectors, total employment, and unemployment are computed by aggregating independently adjusted component series. For example, total unemployment is derived by summing the adjusted series for four major age-sex components; this differs from the unemployment estimate that would be obtained by directly adjusting the total or by combining the duration, reasons, or more detailed age categories. Percentage distributions of unemployment by reason and duration are derived from the sum of the independently seasonally adjusted component series and will not necessarily match calculations made using the seasonally adjusted total unemployment level. Additional information about seasonal adjustment in the household survey can be found at www.bls.gov/cps/documentation.htm#sa.

For both the household and establishment surveys, a concurrent seasonal adjustment methodology is used in which new seasonal factors are calculated each month using all relevant data, up to and including the data for the current month. In the household survey, new seasonal factors are used to adjust only the current month's data. In the establishment survey, however, new seasonal factors are used each month to adjust the three most recent monthly estimates. The prior 2 months are routinely revised to incorporate additional sample reports and recalculated seasonal adjustment factors. In both surveys, 5-year revisions to historical data are made once a year.

Reliability of the estimates

Statistics based on the household and establishment surveys are subject to both sampling and nonsampling error. When a sample, rather than the entire population, is surveyed, there is a chance that the sample estimates may differ from the true population values they represent. The component of this difference that occurs because samples differ by chance is known as *sampling error*, and its variability is measured by the standard error of the estimate. There is about a 90-percent chance, or level of confidence, that an estimate based on a sample will differ by no more than 1.6 standard errors from the true population value because of sampling error. BLS analyses are generally conducted at the 90-percent level of confidence.

For example, the confidence interval for the monthly change in total nonfarm employment from the establishment survey is on the order of plus or minus 130,000. Suppose the estimate of nonfarm employment increases by 50,000 from one month to the next. The 90-percent confidence interval on the monthly change would range from -80,000 to +180,000 (50,000 +/- 130,000). These figures do not mean that the sample results are off by these magnitudes, but rather that there is about a 90-percent chance that the true over-the-month change lies within this interval. Since this range includes values of less than zero, we could not say with confidence that nonfarm employment had, in fact, increased that month. If, however, the reported nonfarm employment rise was 250,000, then all of the values within the 90-percent confidence interval would be greater than zero. In this case, it is likely (at least a 90-percent chance) that nonfarm employment had, in fact, risen that month. At an unemployment rate of around 6.0 percent, the 90-percent confidence interval for the monthly change in unemployment as measured by the household survey is about +/- 300,000, and for the monthly change in the unemployment rate it is about +/- 0.2 percentage point.

In general, estimates involving many individuals or establishments have lower standard errors (relative to the size of the estimate) than estimates which are based on a small number of observations. The precision of estimates also is improved when the data are cumulated over time, such as for quarterly and annual averages.

The household and establishment surveys are also affected by *nonsampling error*, which can occur for many reasons, including the failure to sample a segment of the population, inability to obtain information for all respondents in the sample, inability or unwillingness of respondents to provide correct information on a timely basis, mistakes made by respondents, and errors made in the collection or processing of the data.

For example, in the establishment survey, estimates for the most recent 2 months are based on incomplete returns; for this reason, these estimates are labeled preliminary in the tables. It is only after two successive revisions to a monthly estimate, when nearly all sample reports have been received, that the estimate is considered final.

Another major source of nonsampling error in the establishment survey is the inability to capture, on a timely

basis, employment generated by new firms. To correct for this systematic underestimation of employment growth, an estimation procedure with two components is used to account for business births. The first component excludes employment losses from business deaths from sample-based estimation in order to offset the missing employment gains from business births. This is incorporated into the sample-based estimation procedure by simply not reflecting sample units going out of business, but imputing to them the same employment trend as the other firms in the sample. This procedure accounts for most of the net birth/death employment.

The second component is an ARIMA time series model designed to estimate the residual net birth/death employment not accounted for by the imputation. The historical time series used to create and test the ARIMA model was derived from the unemployment insurance universe micro-level database, and reflects the actual residual net of births and deaths over the past 5 years.

The sample-based estimates from the establishment survey are adjusted once a year (on a lagged basis) to universe counts of payroll employment obtained from administrative records of the unemployment insurance program. The difference between the March sample-based employment estimates and the March universe counts is known as a benchmark revision, and serves as a rough proxy for total survey error. The new benchmarks also incorporate changes in the classification of industries. Over the past decade, absolute benchmark revisions for total nonfarm employment have averaged 0.1 percent, with a range from -0.3 percent to 0.3 percent.

Other information

If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

HOUSEHOLD DATA

Table A-1. Employment status of the civilian population by sex and age

[Numbers in thousands]

Employment status, sex, and age	Not seasonally adjusted			Seasonally adjusted ¹					
	Feb. 2022	Jan. 2023	Feb. 2023	Feb. 2022	Oct. 2022	Nov. 2022	Dec. 2022	Jan. 2023	Feb. 2023
TOTAL									
Civilian noninstitutional population.....	263,324	265,962	266,112	263,324	264,535	264,708	264,844	265,962	266,112
Civilian labor force.....	163,725	165,070	166,178	163,862	164,646	164,527	164,966	165,832	166,251
Participation rate.....	62.2	62.1	62.4	62.2	62.2	62.2	62.3	62.4	62.5
Employed.....	156,942	158,692	159,713	157,590	158,593	158,527	159,244	160,138	160,315
Employment-population ratio.....	59.6	59.7	60.0	59.8	60.0	59.9	60.1	60.2	60.2
Unemployed.....	6,782	6,378	6,465	6,272	6,053	6,000	5,722	5,694	5,936
Unemployment rate.....	4.1	3.9	3.9	3.8	3.7	3.6	3.5	3.4	3.6
Not in labor force.....	99,600	100,892	99,934	99,463	99,890	100,181	99,878	100,130	99,861
Persons who currently want a job.....	5,299	5,466	4,987	5,392	5,681	5,528	5,176	5,314	5,103
Men, 16 years and over									
Civilian noninstitutional population.....	128,296	129,998	130,072	128,296	128,897	128,983	129,050	129,998	130,072
Civilian labor force.....	87,271	87,842	88,382	87,389	87,772	87,793	87,864	88,334	88,474
Participation rate.....	68.0	67.6	67.9	68.1	68.1	68.1	68.1	67.9	68.0
Employed.....	83,460	84,120	84,606	84,071	84,559	84,557	84,880	85,186	85,266
Employment-population ratio.....	65.1	64.7	65.1	65.5	65.6	65.6	65.8	65.5	65.6
Unemployed.....	3,812	3,723	3,717	3,318	3,212	3,236	2,984	3,147	3,208
Unemployment rate.....	4.4	4.2	4.2	3.8	3.7	3.7	3.4	3.6	3.6
Not in labor force.....	41,024	42,156	41,689	40,907	41,126	41,189	41,186	41,665	41,597
Men, 20 years and over									
Civilian noninstitutional population.....	119,669	121,283	121,346	119,669	120,225	120,301	120,360	121,283	121,346
Civilian labor force.....	84,390	84,872	85,363	84,264	84,606	84,525	84,694	85,084	85,210
Participation rate.....	70.5	70.0	70.3	70.4	70.4	70.3	70.4	70.2	70.2
Employed.....	80,918	81,524	82,048	81,293	81,776	81,696	82,033	82,324	82,407
Employment-population ratio.....	67.6	67.2	67.6	67.9	68.0	67.9	68.2	67.9	67.9
Unemployed.....	3,472	3,348	3,315	2,971	2,829	2,827	2,661	2,760	2,803
Unemployment rate.....	4.1	3.9	3.9	3.5	3.3	3.3	3.1	3.2	3.3
Not in labor force.....	35,280	36,412	35,983	35,405	35,619	35,776	35,666	36,199	36,136
Women, 16 years and over									
Civilian noninstitutional population.....	135,028	135,963	136,040	135,028	135,638	135,725	135,795	135,963	136,040
Civilian labor force.....	76,453	77,226	77,796	76,473	76,874	76,734	77,102	77,498	77,777
Participation rate.....	56.6	56.8	57.2	56.6	56.7	56.5	56.8	57.0	57.2
Employed.....	73,483	74,572	75,047	73,519	74,033	73,970	74,364	74,952	75,049
Employment-population ratio.....	54.4	54.8	55.2	54.4	54.6	54.5	54.8	55.1	55.2
Unemployed.....	2,971	2,656	2,749	2,954	2,841	2,764	2,738	2,546	2,728
Unemployment rate.....	3.9	3.4	3.5	3.9	3.7	3.6	3.6	3.3	3.5
Not in labor force.....	58,575	58,736	58,245	58,555	58,764	58,991	58,692	58,465	58,264
Women, 20 years and over									
Civilian noninstitutional population.....	126,631	127,546	127,613	126,631	127,204	127,283	127,345	127,546	127,613
Civilian labor force.....	73,650	74,308	74,823	73,482	73,752	73,532	73,930	74,379	74,606
Participation rate.....	58.2	58.3	58.6	58.0	58.0	57.8	58.1	58.3	58.5
Employed.....	70,931	71,921	72,354	70,810	71,218	71,088	71,531	72,104	72,189
Employment-population ratio.....	56.0	56.4	56.7	55.9	56.0	55.9	56.2	56.5	56.6
Unemployed.....	2,718	2,387	2,470	2,672	2,534	2,444	2,398	2,275	2,417
Unemployment rate.....	3.7	3.2	3.3	3.6	3.4	3.3	3.2	3.1	3.2
Not in labor force.....	52,981	53,238	52,790	53,149	53,452	53,750	53,416	53,167	53,007
Both sexes, 16 to 19 years									
Civilian noninstitutional population.....	17,024	17,133	17,153	17,024	17,107	17,124	17,139	17,133	17,153
Civilian labor force.....	5,685	5,890	5,992	6,116	6,286	6,469	6,343	6,968	6,435
Participation rate.....	33.4	34.4	34.9	35.9	36.8	37.8	37.0	37.2	37.5
Employed.....	5,094	5,247	5,311	5,487	5,598	5,740	5,680	5,710	5,719
Employment-population ratio.....	29.9	30.6	31.0	32.2	32.7	33.5	33.1	33.3	33.3
Unemployed.....	592	643	680	628	690	729	662	658	716
Unemployment rate.....	10.4	10.9	11.4	10.3	11.0	11.3	10.4	10.3	11.1
Not in labor force.....	11,339	11,242	11,161	10,908	10,819	10,655	10,796	10,765	10,718

¹ The population figures are not adjusted for seasonal variation; therefore, identical numbers appear in the unadjusted and seasonally adjusted columns.

NOTE: Updated population controls are introduced annually with the release of January data.

HOUSEHOLD DATA

Table A-2. Employment status of the civilian population by race, sex, and age

[Numbers in thousands]

Employment status, race, sex, and age	Not seasonally adjusted			Seasonally adjusted ¹					
	Feb. 2022	Jan. 2023	Feb. 2023	Feb. 2022	Oct. 2022	Nov. 2022	Dec. 2022	Jan. 2023	Feb. 2023
WHITE									
Civilian noninstitutional population.....	202,875	204,062	204,118	202,875	203,522	203,617	203,684	204,062	204,118
Civilian labor force.....	126,014	126,133	126,754	126,026	126,180	125,902	126,408	126,699	126,756
Participation rate.....	62.1	61.8	62.1	62.1	62.0	61.8	62.1	62.1	62.1
Employed.....	121,402	121,675	122,285	121,850	122,063	121,807	122,556	122,776	122,738
Employment-population ratio.....	59.8	59.6	59.9	60.1	60.0	59.8	60.2	60.2	60.1
Unemployed.....	4,612	4,458	4,470	4,175	4,117	4,094	3,852	3,924	4,017
Unemployment rate.....	3.7	3.5	3.5	3.3	3.3	3.3	3.0	3.1	3.2
Not in labor force.....	76,861	77,928	77,364	76,849	77,342	77,716	77,276	77,362	77,362
Men, 20 years and over									
Civilian labor force.....	65,987	65,973	66,225	65,833	66,032	65,759	66,045	66,118	66,083
Participation rate.....	70.5	69.8	70.1	70.3	70.3	70.0	70.3	70.0	69.9
Employed.....	63,583	63,596	63,842	63,843	64,026	63,767	64,189	64,210	64,125
Employment-population ratio.....	67.9	67.3	67.6	68.2	68.2	67.9	68.3	68.0	67.9
Unemployed.....	2,404	2,377	2,383	1,990	2,006	1,992	1,856	1,908	1,958
Unemployment rate.....	3.6	3.6	3.6	3.0	3.0	3.0	2.8	2.9	3.0
Women, 20 years and over									
Civilian labor force.....	55,501	55,601	55,892	55,326	55,340	55,174	55,461	55,637	55,733
Participation rate.....	57.3	57.2	57.6	57.2	57.0	56.8	57.1	57.3	57.4
Employed.....	53,737	53,977	54,309	53,591	53,691	53,562	53,918	54,093	54,142
Employment-population ratio.....	55.5	55.6	55.9	55.4	55.3	55.1	55.5	55.7	55.7
Unemployed.....	1,764	1,624	1,623	1,734	1,649	1,611	1,543	1,544	1,591
Unemployment rate.....	3.2	2.9	2.9	3.1	3.0	2.9	2.8	2.8	2.9
Both sexes, 16 to 19 years									
Civilian labor force.....	4,525	4,559	4,597	4,867	4,807	4,969	4,902	4,944	4,940
Participation rate.....	36.3	36.5	36.8	39.0	38.5	39.7	39.2	39.6	39.6
Employed.....	4,082	4,101	4,133	4,416	4,346	4,478	4,449	4,472	4,471
Employment-population ratio.....	32.7	32.9	33.1	35.4	34.8	35.8	35.5	35.8	35.8
Unemployed.....	444	458	463	451	462	491	453	472	469
Unemployment rate.....	9.8	10.0	10.1	9.3	9.6	9.9	9.2	9.5	9.5
BLACK OR AFRICAN AMERICAN									
Civilian noninstitutional population.....	34,004	34,487	34,519	34,004	34,237	34,272	34,301	34,487	34,519
Civilian labor force.....	21,003	21,544	21,770	21,139	21,247	21,365	21,418	21,697	21,893
Participation rate.....	61.8	62.5	63.1	62.2	62.1	62.3	62.4	62.9	63.4
Employed.....	19,566	20,335	20,488	19,751	19,988	20,139	20,189	20,535	20,654
Employment-population ratio.....	57.5	59.0	59.4	58.1	58.4	58.8	58.9	59.5	59.8
Unemployed.....	1,437	1,209	1,282	1,388	1,259	1,226	1,229	1,162	1,239
Unemployment rate.....	6.8	5.6	5.9	6.6	5.9	5.7	5.7	5.4	5.7
Not in labor force.....	13,001	12,943	12,749	12,865	12,990	12,907	12,883	12,790	12,626
Men, 20 years and over									
Civilian labor force.....	9,887	10,038	10,153	9,960	9,783	9,947	9,956	10,115	10,218
Participation rate.....	68.4	68.2	68.9	68.9	67.2	68.3	68.3	68.7	69.3
Employed.....	9,200	9,461	9,593	9,323	9,269	9,406	9,446	9,579	9,700
Employment-population ratio.....	63.7	64.2	65.1	64.5	63.7	64.6	64.8	65.0	65.8
Unemployed.....	687	577	560	637	514	539	510	535	518
Unemployment rate.....	6.9	5.8	5.5	6.4	5.3	5.4	5.1	5.3	5.1
Women, 20 years and over									
Civilian labor force.....	10,527	10,790	10,876	10,536	10,696	10,633	10,679	10,804	10,877
Participation rate.....	61.6	62.6	63.0	61.7	62.2	61.8	62.0	62.6	63.0
Employed.....	9,874	10,276	10,301	9,899	10,080	10,077	10,093	10,301	10,319
Employment-population ratio.....	57.8	59.6	59.7	58.0	58.6	58.6	58.6	59.7	59.8
Unemployed.....	653	514	575	637	616	556	586	504	558
Unemployment rate.....	6.2	4.8	5.3	6.0	5.8	5.2	5.5	4.7	5.1
Both sexes, 16 to 19 years									
Civilian labor force.....	589	716	741	644	768	785	784	778	797
Participation rate.....	23.8	28.5	29.5	26.1	30.8	31.4	31.4	31.0	31.7
Employed.....	491	599	594	529	639	654	650	655	635
Employment-population ratio.....	19.9	23.9	23.6	21.4	25.7	26.2	26.0	26.1	25.2
Unemployed.....	98	118	147	115	129	131	134	123	163
Unemployment rate.....	16.6	16.4	19.9	17.8	16.7	16.7	17.1	15.8	20.4

See footnotes at end of table.

HOUSEHOLD DATA

Table A-2. Employment status of the civilian population by race, sex, and age — Continued

(Numbers in thousands)

Employment status, race, sex, and age	Not seasonally adjusted			Seasonally adjusted ¹					
	Feb. 2022	Jan. 2023	Feb. 2023	Feb. 2022	Oct. 2022	Nov. 2022	Dec. 2022	Jan. 2023	Feb. 2023
ASIAN									
Civilian noninstitutional population.....	16,782	17,541	17,444	16,782	17,129	16,980	17,005	17,541	17,444
Civilian labor force.....	10,567	11,196	11,371	10,566	11,106	10,995	10,918	11,240	11,348
Participation rate.....	63.0	63.8	65.2	63.0	64.6	64.6	64.2	64.1	65.1
Employed.....	10,256	10,856	10,992	10,248	10,781	10,704	10,654	10,926	10,962
Employment-population ratio.....	61.1	61.9	63.0	61.1	62.9	63.0	62.7	62.3	62.8
Unemployed.....	311	340	309	318	325	291	265	313	386
Unemployment rate.....	2.9	3.0	3.4	3.0	2.9	2.6	2.4	2.8	3.4
Not in labor force.....	6,215	6,345	6,073	6,216	6,023	5,984	6,086	6,301	6,096

¹ The population figures are not adjusted for seasonal variation; therefore, identical numbers appear in the unadjusted and seasonally adjusted columns.

NOTE: Estimates for the above race groups will not sum to totals shown in table A-1 because data are not presented for all races. Updated population controls are introduced annually with the release of January data.

HOUSEHOLD DATA

Table A-3. Employment status of the Hispanic or Latino population by sex and age

(Numbers in thousands)

Employment status, sex, and age	Not seasonally adjusted			Seasonally adjusted ¹					
	Feb. 2022	Jan. 2023	Feb. 2023	Feb. 2022	Oct. 2022	Nov. 2022	Dec. 2022	Jan. 2023	Feb. 2023
HISPANIC OR LATINO ETHNICITY									
Civilian noninstitutional population.....	45,816	47,010	47,103	45,816	46,459	46,545	46,624	47,010	47,103
Civilian labor force.....	30,449	31,131	31,507	30,496	30,725	30,600	30,693	31,153	31,444
Participation rate.....	66.5	66.2	66.9	66.6	66.1	65.7	66.3	66.3	66.8
Employed.....	28,991	29,430	29,640	29,139	29,430	29,382	29,611	29,737	29,789
Employment-population ratio.....	63.3	62.6	62.9	63.6	63.3	63.1	63.5	63.3	63.2
Unemployed.....	1,458	1,701	1,866	1,357	1,295	1,218	1,281	1,416	1,655
Unemployment rate.....	4.8	5.5	5.9	4.5	4.2	4.0	4.1	4.5	5.3
Not in labor force.....	15,367	15,879	15,597	15,319	15,734	15,944	15,731	15,857	15,659
Men, 20 years and over									
Civilian labor force.....	16,678	16,834	16,951	16,702	16,653	16,526	16,725	16,795	16,882
Participation rate.....	80.3	78.8	79.2	80.4	79.1	78.4	79.2	78.6	78.8
Employed.....	15,964	15,875	15,912	16,081	16,000	15,925	16,047	16,073	16,036
Employment-population ratio.....	76.9	74.3	74.3	77.5	76.0	75.5	76.0	75.2	74.9
Unemployed.....	713	958	1,038	622	653	601	677	722	846
Unemployment rate.....	4.3	5.7	6.1	3.7	3.9	3.6	4.0	4.3	5.0
Women, 20 years and over									
Civilian labor force.....	12,425	13,024	13,120	12,403	12,655	12,637	12,785	13,024	13,085
Participation rate.....	59.7	61.1	61.5	59.6	59.9	59.7	60.3	61.1	61.3
Employed.....	11,809	12,391	12,465	11,808	12,185	12,179	12,307	12,447	12,460
Employment-population ratio.....	56.7	58.1	58.4	56.7	57.7	57.6	58.1	58.4	58.4
Unemployed.....	616	633	655	595	469	458	478	577	626
Unemployment rate.....	5.0	4.9	5.0	4.8	3.7	3.6	3.7	4.4	4.8
Both sexes, 16 to 19 years									
Civilian labor force.....	1,346	1,274	1,436	1,391	1,417	1,438	1,383	1,334	1,477
Participation rate.....	31.8	29.4	33.1	32.9	33.0	33.4	32.0	30.8	34.0
Employed.....	1,218	1,164	1,262	1,250	1,245	1,279	1,257	1,217	1,294
Employment-population ratio.....	28.8	26.9	29.1	29.5	29.0	29.7	29.1	28.1	29.8
Unemployed.....	129	110	173	141	173	159	126	116	183
Unemployment rate.....	9.6	8.7	12.1	10.1	12.2	11.0	9.1	8.7	12.4

¹ The population figures are not adjusted for seasonal variation; therefore, identical numbers appear in the unadjusted and seasonally adjusted columns.

NOTE: Persons whose ethnicity is identified as Hispanic or Latino may be of any race. Updated population controls are introduced annually with the release of January data.

HOUSEHOLD DATA

Table A-4. Employment status of the civilian population 25 years and over by educational attainment

(Numbers in thousands)

Educational attainment	Not seasonally adjusted			Seasonally adjusted					
	Feb. 2022	Jan. 2023	Feb. 2023	Feb. 2022	Oct. 2022	Nov. 2022	Dec. 2022	Jan. 2023	Feb. 2023
Less than a high school diploma									
Civilian labor force.....	8,647	8,829	8,850	8,976	9,141	8,901	8,885	8,814	9,165
Participation rate.....	45.2	46.1	46.7	46.9	46.6	45.6	45.6	46.0	48.3
Employed.....	8,141	8,267	8,198	8,574	8,574	8,506	8,443	8,417	8,629
Employment-population ratio.....	42.5	43.1	43.2	44.8	43.7	43.5	43.4	43.9	45.5
Unemployed.....	507	562	652	402	567	395	442	397	536
Unemployment rate.....	5.9	6.4	7.4	4.5	6.2	4.4	5.0	4.5	5.8
High school graduates, no college¹									
Civilian labor force.....	36,577	35,983	35,852	36,550	35,070	35,192	35,605	36,189	35,850
Participation rate.....	56.2	56.1	56.0	56.2	55.9	55.7	56.2	56.4	56.0
Employed.....	34,793	34,457	34,441	34,935	33,692	33,816	34,339	34,836	34,574
Employment-population ratio.....	53.5	53.7	53.8	53.7	53.7	53.5	54.2	54.3	54.0
Unemployed.....	1,784	1,526	1,411	1,615	1,378	1,377	1,266	1,353	1,276
Unemployment rate.....	4.9	4.2	3.9	4.4	3.9	3.9	3.6	3.7	3.6
Some college or associate degree									
Civilian labor force.....	35,337	35,952	35,869	35,423	35,806	35,880	35,789	36,082	35,962
Participation rate.....	63.5	63.2	63.4	63.7	62.7	62.9	62.7	63.5	63.6
Employed.....	33,931	34,859	34,594	34,122	34,734	34,748	34,735	35,046	34,796
Employment-population ratio.....	61.0	61.3	61.2	61.4	60.8	60.9	60.8	61.7	61.5
Unemployed.....	1,406	1,093	1,275	1,301	1,071	1,133	1,054	1,036	1,167
Unemployment rate.....	4.0	3.0	3.6	3.7	3.0	3.2	2.9	2.9	3.2
Bachelor's degree and higher²									
Civilian labor force.....	62,734	62,863	63,848	62,017	63,312	63,041	63,150	62,854	63,140
Participation rate.....	73.3	72.7	73.1	72.5	72.7	72.5	72.7	72.7	72.3
Employed.....	61,375	61,526	62,530	60,679	62,089	61,781	61,947	61,591	61,858
Employment-population ratio.....	71.7	71.1	71.6	70.9	71.3	71.1	71.3	71.2	70.9
Unemployed.....	1,359	1,338	1,318	1,338	1,223	1,260	1,203	1,263	1,282
Unemployment rate.....	2.2	2.1	2.1	2.2	1.9	2.0	1.9	2.0	2.0

¹ Includes persons with a high school diploma or equivalent.² Includes persons with bachelor's, master's, professional, and doctoral degrees.

NOTE: Detail for the seasonally adjusted data shown in this table will not necessarily add to totals for those 25 years and over because of the independent seasonal adjustment of the various series. Updated population controls are introduced annually with the release of January data.

HOUSEHOLD DATA

Table A-5. Employment status of the civilian population 18 years and over by veteran status, period of service, and sex, not seasonally adjusted

[Numbers in thousands]

Employment status, veteran status, and period of service	Total		Men		Women	
	Feb. 2022	Feb. 2023	Feb. 2022	Feb. 2023	Feb. 2022	Feb. 2023
VETERANS, 18 years and over						
Civilian noninstitutional population.....	18,469	18,002	16,448	15,967	2,021	2,035
Civilian labor force.....	8,971	8,683	7,770	7,600	1,202	1,083
Participation rate.....	48.6	48.2	47.2	47.6	59.5	53.2
Employed.....	8,696	8,462	7,540	7,393	1,146	1,069
Employment-population ratio.....	47.0	47.0	45.8	46.3	56.7	52.5
Unemployed.....	285	221	230	207	56	14
Unemployment rate.....	3.2	2.5	3.0	2.7	4.6	1.3
Not in labor force.....	9,498	9,319	8,678	8,367	819	952
Gulf War-era II veterans						
Civilian noninstitutional population.....	4,814	4,989	3,911	4,070	904	919
Civilian labor force.....	3,840	4,004	3,178	3,381	662	623
Participation rate.....	79.8	80.3	81.3	83.1	73.3	67.8
Employed.....	3,718	3,894	3,088	3,283	630	611
Employment-population ratio.....	77.2	78.0	79.0	80.7	69.8	66.5
Unemployed.....	122	111	90	98	32	12
Unemployment rate.....	3.2	2.8	2.8	2.9	4.8	2.0
Not in labor force.....	974	985	733	689	241	295
Gulf War-era I veterans						
Civilian noninstitutional population.....	3,264	2,947	2,810	2,510	453	437
Civilian labor force.....	2,433	2,148	2,104	1,831	329	317
Participation rate.....	74.6	72.9	74.9	72.9	72.6	72.5
Employed.....	2,376	2,098	2,063	1,781	314	317
Employment-population ratio.....	72.8	71.2	73.4	70.9	69.1	72.5
Unemployed.....	57	50	42	50	16	0
Unemployment rate.....	2.3	2.3	2.0	2.7	4.7	0.0
Not in labor force.....	831	799	706	679	124	120
World War II, Korean War, and Vietnam-era veterans						
Civilian noninstitutional population.....	6,345	6,077	6,093	5,820	252	257
Civilian labor force.....	985	820	943	815	42	6
Participation rate.....	15.5	13.5	15.5	14.0	16.7	2.1
Employed.....	939	809	901	803	38	6
Employment-population ratio.....	14.8	13.3	14.8	13.8	15.1	2.1
Unemployed.....	46	11	42	11	4	0
Unemployment rate.....	4.7	1.4	4.5	1.4	-	-
Not in labor force.....	5,360	5,257	5,150	5,005	210	251
Veterans of other service periods						
Civilian noninstitutional population.....	4,046	3,989	3,634	3,567	412	422
Civilian labor force.....	1,713	1,711	1,545	1,574	168	137
Participation rate.....	42.3	42.9	42.5	44.1	40.8	32.5
Employed.....	1,652	1,662	1,488	1,526	164	136
Employment-population ratio.....	40.8	41.7	41.0	42.8	39.8	32.2
Unemployed.....	61	49	56	47	4	1
Unemployment rate.....	3.5	2.8	3.7	3.0	2.5	0.9
Not in labor force.....	2,333	2,278	2,089	1,993	244	285
NONVETERANS, 18 years and over						
Civilian noninstitutional population.....	235,694	238,871	107,147	109,483	128,546	129,389
Civilian labor force.....	152,438	155,307	78,383	79,747	74,055	75,560
Participation rate.....	64.7	65.0	73.2	72.8	57.6	58.4
Employed.....	146,175	149,259	74,906	76,361	71,269	72,898
Employment-population ratio.....	62.0	62.5	69.9	69.7	55.4	56.3
Unemployed.....	6,263	6,049	3,477	3,387	2,786	2,662
Unemployment rate.....	4.1	3.9	4.4	4.2	3.8	3.5
Not in labor force.....	83,256	83,564	28,763	29,735	54,491	53,829

NOTE: Veterans served on active duty in the U.S. Armed Forces and were not on active duty at the time of the survey. Nonveterans never served on active duty in the U.S. Armed Forces. Veterans could have served anywhere in the world during these periods of service: Gulf War era II (September 2001-present), Gulf War era I (August 1990-August 2001), Vietnam era (August 1964-April 1975), Korean War (July 1950-January 1955), World War II (December 1941-December 1946), and other service periods (all other time periods). Veterans who served in more than one wartime period are classified only in the most recent one. Veterans who served during one of the selected wartime periods and another period are classified only in the wartime period. Dash indicates no data or data that do not meet publication criteria (values not shown where base is less than 75,000).

HOUSEHOLD DATA

Table A-6. Employment status of the civilian population by sex, age, and disability status, not seasonally adjusted

[Numbers in thousands]

Employment status, sex, and age	Persons with a disability		Persons with no disability	
	Feb. 2022	Feb. 2023	Feb. 2022	Feb. 2023
TOTAL, 16 years and over				
Civilian noninstitutional population.....	32,014	32,611	231,310	233,501
Civilian labor force.....	7,250	7,786	156,474	158,392
Participation rate.....	22.6	23.9	67.6	67.8
Employed.....	6,613	7,214	150,329	152,498
Employment-population ratio.....	20.7	22.1	65.0	65.3
Unemployed.....	637	572	6,145	5,894
Unemployment rate.....	8.8	7.3	3.9	3.7
Not in labor force.....	24,764	24,825	74,835	75,109
Men, 16 to 64 years				
Civilian labor force.....	3,079	3,256	78,013	79,093
Participation rate.....	38.0	41.9	82.4	82.2
Employed.....	2,780	3,007	74,747	75,778
Employment-population ratio.....	34.3	38.7	78.9	78.7
Unemployed.....	299	249	3,266	3,316
Unemployment rate.....	9.7	7.6	4.2	4.2
Not in labor force.....	5,025	4,516	16,702	17,162
Women, 16 to 64 years				
Civilian labor force.....	2,905	3,245	68,898	69,610
Participation rate.....	35.3	38.6	71.5	72.4
Employed.....	2,624	2,966	66,316	67,277
Employment-population ratio.....	31.9	35.3	68.8	70.0
Unemployed.....	281	279	2,582	2,333
Unemployment rate.....	9.7	8.6	3.7	3.4
Not in labor force.....	5,330	5,164	27,444	26,508
Both sexes, 65 years and over				
Civilian labor force.....	1,266	1,285	9,563	9,688
Participation rate.....	8.1	7.8	23.8	23.6
Employed.....	1,209	1,241	9,265	9,443
Employment-population ratio.....	7.7	7.6	23.0	23.0
Unemployed.....	57	44	298	245
Unemployment rate.....	4.5	3.4	3.1	2.5
Not in labor force.....	14,409	15,146	30,689	31,439

NOTE: A person with a disability has at least one of the following conditions: is deaf or has serious difficulty hearing; is blind or has serious difficulty seeing even when wearing glasses; has serious difficulty concentrating, remembering, or making decisions because of a physical, mental, or emotional condition; has serious difficulty walking or climbing stairs; has difficulty dressing or bathing; or has difficulty doing errands alone such as visiting a doctor's office or shopping because of a physical, mental, or emotional condition. Updated population controls are introduced annually with the release of January data.

HOUSEHOLD DATA

Table A-7. Employment status of the civilian population by nativity and sex, not seasonally adjusted

(Numbers in thousands)

Employment status and nativity	Total		Men		Women	
	Feb. 2022	Feb. 2023	Feb. 2022	Feb. 2023	Feb. 2022	Feb. 2023
Foreign born, 16 years and over						
Civilian noninstitutional population.....	44,718	46,470	21,781	22,743	22,957	23,727
Civilian labor force.....	29,229	30,527	16,758	17,464	12,471	13,363
Participation rate.....	65.4	66.3	77.0	76.8	54.3	56.3
Employed.....	28,138	29,518	16,173	16,705	11,965	12,813
Employment-population ratio.....	62.9	63.5	74.3	73.4	52.1	54.0
Unemployed.....	1,092	1,309	585	759	506	550
Unemployment rate.....	3.7	4.2	3.5	4.3	4.1	4.1
Not in labor force.....	15,489	15,643	5,003	5,279	10,486	10,364
Native born, 16 years and over						
Civilian noninstitutional population.....	218,606	219,642	106,534	107,328	112,071	112,314
Civilian labor force.....	134,495	135,351	70,513	70,919	63,982	64,433
Participation rate.....	61.5	61.6	66.2	66.1	57.1	57.4
Employed.....	128,805	130,194	67,287	67,961	61,518	62,234
Employment-population ratio.....	58.9	59.3	63.2	63.3	54.9	55.4
Unemployed.....	5,691	5,157	3,226	2,958	2,464	2,199
Unemployment rate.....	4.2	3.8	4.6	4.2	3.9	3.4
Not in labor force.....	84,110	84,291	36,021	36,410	48,089	47,881

NOTE: The foreign born are those residing in the United States who were not U.S. citizens at birth. That is, they were born outside the United States or one of its outlying areas such as Puerto Rico or Guam, to parents neither of whom was a U.S. citizen. The native born are persons who were born in the United States or one of its outlying areas such as Puerto Rico or Guam or who were born abroad of at least one parent who was a U.S. citizen. Updated population controls are introduced annually with the release of January data.

HOUSEHOLD DATA

Table A-8. Employed persons by class of worker and part-time status

[In thousands]

Category	Not seasonally adjusted			Seasonally adjusted					
	Feb. 2022	Jan. 2023	Feb. 2023	Feb. 2022	Oct. 2022	Nov. 2022	Dec. 2022	Jan. 2023	Feb. 2023
CLASS OF WORKER									
Agriculture and related industries.....	2,262	2,145	2,251	2,363	2,206	2,228	2,311	2,245	2,346
Wage and salary workers ¹	1,457	1,428	1,456	1,524	1,495	1,492	1,496	1,485	1,521
Self-employed workers, unincorporated.....	771	682	755	800	692	715	791	720	781
Unpaid family workers.....	34	35	40	—	—	—	—	—	—
Nonagricultural industries.....	154,681	156,547	157,461	155,033	156,570	156,344	156,818	157,645	157,743
Wage and salary workers ¹	145,611	147,532	148,238	146,140	147,109	147,381	147,886	148,822	148,723
Government.....	21,375	21,968	21,951	20,928	21,211	21,084	21,683	21,548	21,501
Private industries.....	124,235	125,564	126,287	124,966	126,102	126,468	126,169	126,981	126,967
Private households.....	572	669	592	—	—	—	—	—	—
Other industries.....	123,663	124,895	125,696	124,266	125,460	125,819	125,538	126,248	126,261
Self-employed workers, unincorporated.....	9,002	8,952	9,173	9,185	9,261	8,970	9,036	9,217	9,338
Unpaid family workers.....	69	63	50	—	—	—	—	—	—
PERSONS AT WORK PART TIME²									
All industries									
Part time for economic reasons ³	4,349	4,498	4,285	4,137	3,664	3,688	3,878	4,050	4,067
Slack work or business conditions.....	2,946	3,114	3,079	2,726	2,535	2,546	2,648	2,685	2,840
Could only find part-time work.....	1,089	993	868	1,061	867	826	911	999	859
Part time for noneconomic reasons ⁴	21,301	22,096	22,494	20,706	21,297	21,226	21,628	22,083	21,856
Nonagricultural industries									
Part time for economic reasons ³	4,278	4,401	4,146	4,103	3,578	3,623	3,810	3,959	3,964
Slack work or business conditions.....	2,900	3,057	2,975	2,688	2,487	2,497	2,611	2,646	2,750
Could only find part-time work.....	1,084	983	850	1,054	862	819	892	988	842
Part time for noneconomic reasons ⁴	20,894	21,683	22,074	20,316	20,950	20,844	21,211	21,674	21,453

¹ Includes self-employed workers whose businesses are incorporated.² Refers to those who worked 1 to 34 hours during the survey reference week and excludes employed persons who were absent from their jobs for the entire week.³ Refers to those who worked 1 to 34 hours during the reference week for an economic reason such as slack work or unfavorable business conditions, inability to find full-time work, or seasonal declines in demand.⁴ Refers to persons who usually work part time for noneconomic reasons such as childcare problems, family or personal obligations, school or training, retirement or Social Security limits on earnings, and other reasons. This excludes persons who usually work full time but worked only 1 to 34 hours during the reference week for reasons such as vacations, holidays, illness, and bad weather.

- Data not available.

NOTE: Detail for the seasonally adjusted data shown in this table will not necessarily add to totals because of the independent seasonal adjustment of the various series. Updated population controls are introduced annually with the release of January data.

HOUSEHOLD DATA
Table A-9. Selected employment indicators
 [Numbers in thousands]

Characteristic	Not seasonally adjusted			Seasonally adjusted					
	Feb. 2022	Jan. 2023	Feb. 2023	Feb. 2022	Oct. 2022	Nov. 2022	Dec. 2022	Jan. 2023	Feb. 2023
AGE AND SEX									
Total, 16 years and over.....	156,942	158,692	159,713	157,590	158,593	158,527	159,244	160,138	160,315
16 to 19 years.....	5,094	5,247	5,311	5,487	5,596	5,740	5,680	5,710	5,719
16 to 17 years.....	2,082	2,033	1,992	2,284	2,200	2,241	2,371	2,265	2,200
18 to 19 years.....	3,012	3,215	3,319	3,212	3,387	3,500	3,312	3,462	3,534
20 years and over.....	151,849	153,444	154,401	152,102	152,994	152,787	153,564	154,428	154,597
20 to 24 years.....	13,609	14,336	14,638	13,831	13,780	13,759	13,834	14,705	14,831
25 years and over.....	138,240	139,108	139,763	138,445	139,160	138,845	139,477	139,834	139,939
25 to 54 years.....	100,923	101,921	102,681	101,159	101,509	101,400	101,848	102,366	102,838
25 to 34 years.....	35,052	35,343	35,751	35,151	35,296	35,073	35,066	35,594	35,799
35 to 44 years.....	34,443	34,904	35,179	34,536	34,611	34,777	34,983	35,010	35,243
45 to 54 years.....	31,427	31,674	31,751	31,471	31,601	31,550	31,799	31,762	31,796
55 years and over.....	37,317	37,188	37,082	37,287	37,651	37,446	37,630	37,468	37,100
Men, 16 years and over.....	83,460	84,120	84,666	84,071	84,559	84,557	84,880	85,186	85,266
16 to 19 years.....	2,542	2,596	2,618	2,778	2,783	2,859	2,847	2,862	2,859
16 to 17 years.....	1,014	907	912	1,122	1,034	1,059	1,109	1,039	1,020
18 to 19 years.....	1,528	1,689	1,706	1,661	1,752	1,809	1,748	1,838	1,851
20 years and over.....	80,918	81,524	82,048	81,293	81,776	81,698	82,033	82,324	82,407
20 to 24 years.....	6,891	7,144	7,355	7,055	7,144	7,071	7,080	7,354	7,494
25 years and over.....	74,027	74,379	74,693	74,444	74,548	74,451	74,767	75,036	75,070
25 to 54 years.....	53,888	54,289	54,765	54,228	54,106	54,119	54,370	54,708	55,033
25 to 34 years.....	18,667	18,717	19,087	18,794	18,701	18,548	18,629	18,916	19,167
35 to 44 years.....	18,566	18,752	18,859	18,691	18,649	18,761	18,798	18,896	18,965
45 to 54 years.....	16,665	16,801	16,819	16,743	16,756	16,810	16,943	16,896	16,901
55 years and over.....	20,129	20,110	19,928	20,216	20,442	20,332	20,396	20,328	20,037
Women, 16 years and over.....	73,483	74,572	75,047	73,519	74,033	73,970	74,364	74,952	75,049
16 to 19 years.....	2,551	2,651	2,693	2,710	2,815	2,881	2,833	2,848	2,860
16 to 17 years.....	1,068	1,125	1,080	1,162	1,167	1,182	1,262	1,226	1,179
18 to 19 years.....	1,483	1,526	1,614	1,551	1,635	1,691	1,564	1,624	1,683
20 years and over.....	70,931	71,921	72,354	70,810	71,218	71,088	71,531	72,104	72,189
20 to 24 years.....	6,718	7,192	7,283	6,776	6,636	6,688	6,755	7,351	7,347
25 years and over.....	64,213	64,729	65,070	64,001	64,612	64,394	64,711	64,798	64,868
25 to 54 years.....	47,025	47,651	47,916	46,930	47,403	47,281	47,477	47,658	47,805
25 to 34 years.....	16,385	16,627	16,664	16,358	16,596	16,525	16,436	16,678	16,633
35 to 44 years.....	15,878	16,152	16,320	15,845	15,963	16,016	16,185	16,114	16,278
45 to 54 years.....	14,762	14,873	14,932	14,728	14,845	14,740	14,857	14,866	14,895
55 years and over.....	17,188	17,078	17,154	17,071	17,209	17,113	17,233	17,140	17,063
MARITAL STATUS									
Married men, spouse present ¹	45,572	45,927	46,414	45,571	45,624	45,988	46,209	46,119	46,387
Married women, spouse present ¹	36,146	36,569	37,152	35,916	36,179	36,322	36,472	36,490	36,883
Women who maintain families ²	9,958	10,154	9,696	—	—	—	—	—	—
FULL- OR PART-TIME STATUS									
Full-time workers ³	130,712	131,175	132,173	131,783	132,179	132,300	132,299	132,577	133,184
Part-time workers ⁴	26,230	27,516	27,540	25,811	26,413	26,115	26,794	27,400	27,089
MULTIPLE JOBHOLDERS									
Total multiple jobholders.....	7,557	7,877	8,041	7,430	7,519	7,676	8,046	8,001	7,904
Percent of total employed.....	4.8	5.0	5.0	4.7	4.7	4.8	5.1	5.0	4.9
SELF-EMPLOYMENT									
Self-employed workers, incorporated.....	6,291	6,560	6,435	—	—	—	—	—	—
Self-employed workers, unincorporated.....	9,772	9,835	9,928	9,985	9,953	9,686	9,827	9,937	10,119

¹ Beginning with data for January 2020, refers to persons in both opposite-sex and same-sex married couples. Prior to January 2020, referred to persons in opposite-sex married couples only.

² Beginning with data for January 2020, refers to female householders residing with one or more family members, but not a spouse of either sex. Prior to January 2020, referred to female householders residing with one or more family members, but not an opposite-sex spouse.

³ Employed full-time workers are persons who usually work 35 hours or more per week.

⁴ Employed part-time workers are persons who usually work less than 35 hours per week.

— Data not available.

NOTE: Detail for the seasonally adjusted data shown in this table will not necessarily add to totals because of the independent seasonal adjustment of the various series. Updated population controls are introduced annually with the release of January data.

HOUSEHOLD DATA
Table A-10. Selected unemployment indicators, seasonally adjusted

Characteristic	Number of unemployed persons (in thousands)			Unemployment rates					
	Feb. 2022	Jan. 2023	Feb. 2023	Feb. 2022	Oct. 2022	Nov. 2022	Dec. 2022	Jan. 2023	Feb. 2023
AGE AND SEX									
Total, 16 years and over.....	6,272	5,694	5,936	3.8	3.7	3.6	3.5	3.4	3.6
16 to 19 years.....	628	658	716	10.3	11.0	11.3	10.4	10.3	11.1
16 to 17 years.....	256	277	216	10.1	9.8	11.5	8.4	10.9	9.0
18 to 19 years.....	362	384	486	10.1	11.9	11.3	12.2	10.0	12.1
20 years and over.....	5,644	5,035	5,219	3.6	3.4	3.3	3.2	3.2	3.3
20 to 24 years.....	1,121	1,116	1,103	7.5	6.9	6.8	7.3	7.1	6.9
25 years and over.....	4,641	4,020	4,235	3.2	3.0	3.0	2.8	2.8	2.9
25 to 34 years.....	3,477	3,136	3,242	3.3	3.2	3.2	2.9	3.0	3.1
35 to 44 years.....	1,502	1,459	1,447	4.1	4.0	4.1	3.8	3.9	3.9
45 to 54 years.....	1,175	927	936	3.3	2.9	2.6	2.4	2.6	2.6
55 years and over.....	799	750	858	2.5	2.8	2.7	2.3	2.3	2.6
Men, 16 years and over.....	3,318	3,147	3,208	3.8	3.7	3.7	3.4	3.6	3.6
16 to 19 years.....	347	387	405	11.1	12.1	12.5	10.2	11.9	12.4
16 to 17 years.....	111	183	131	9.0	11.7	15.6	9.3	15.0	11.4
18 to 19 years.....	234	207	275	12.4	12.6	10.9	11.3	10.1	12.9
20 years and over.....	2,971	2,760	2,803	3.5	3.3	3.3	3.1	3.2	3.3
20 to 24 years.....	600	620	646	7.8	7.2	7.7	7.3	7.8	7.9
25 years and over.....	2,464	2,225	2,251	3.2	2.9	2.9	2.8	2.9	2.9
25 to 34 years.....	1,794	1,722	1,738	3.2	3.1	3.0	2.8	3.1	3.1
35 to 44 years.....	756	856	773	3.9	3.9	4.1	3.9	4.3	3.9
45 to 54 years.....	636	484	532	3.3	2.6	2.4	2.3	2.5	2.7
55 years and over.....	401	382	434	2.3	2.8	2.6	2.1	2.2	2.5
Women, 16 years and over.....	2,954	2,546	2,728	3.9	3.7	3.6	3.6	3.3	3.5
16 to 19 years.....	281	271	311	9.4	9.8	10.0	10.7	8.7	9.8
16 to 17 years.....	145	93	86	11.1	8.0	7.4	7.6	7.1	6.8
18 to 19 years.....	128	177	213	7.6	11.1	11.7	13.2	9.8	11.2
20 years and over.....	2,672	2,275	2,417	3.6	3.4	3.3	3.2	3.1	3.2
20 to 24 years.....	521	496	457	7.1	6.6	5.9	7.3	6.3	5.9
25 years and over.....	2,178	1,795	1,984	3.3	3.1	3.0	2.8	2.7	3.0
25 to 34 years.....	1,683	1,414	1,503	3.5	3.3	3.3	3.0	2.9	3.0
35 to 44 years.....	746	604	674	4.4	4.0	4.1	3.7	3.5	3.9
45 to 54 years.....	539	443	405	3.3	3.2	2.9	2.5	2.7	2.4
55 years and over.....	398	368	425	2.6	2.7	2.8	2.5	2.4	2.8
Married men, spouse present ¹	871	837	885	1.9	1.9	2.0	1.8	1.8	1.9
Married women, spouse present ¹	858	710	766	2.3	2.2	2.0	2.1	1.9	2.0
Women who maintain families ²	557	403	514	5.3	5.7	4.9	3.6	3.8	5.0
FULL- OR PART-TIME STATUS									
Full-time workers ³	5,223	4,634	4,863	3.8	3.7	3.5	3.4	3.4	3.5
Part-time workers ⁴	1,065	1,078	1,117	4.0	3.9	4.4	3.9	3.8	4.0

¹ Beginning with data for January 2020, refers to persons in both opposite-sex and same-sex married couples. Prior to January 2020, referred to persons in opposite-sex married couples only.

² Data are not seasonally adjusted. Beginning with data for January 2020, refers to female householders residing with one or more family members, but not a spouse of either sex. Prior to January 2020, referred to female householders residing with one or more family members, but not an opposite-sex spouse.

³ Full-time workers are unemployed persons who have expressed a desire to work full time (35 hours or more per week) or are on layoff from full-time jobs.

⁴ Part-time workers are unemployed persons who have expressed a desire to work part time (less than 35 hours per week) or are on layoff from part-time jobs.

NOTE: Detail for the seasonally adjusted data shown in this table will not necessarily add to totals because of the independent seasonal adjustment of the various series. Updated population controls are introduced annually with the release of January data.

HOUSEHOLD DATA
Table A-11. Unemployed persons by reason for unemployment
 (Numbers in thousands)

Reason	Not seasonally adjusted			Seasonally adjusted					
	Feb. 2022	Jan. 2023	Feb. 2023	Feb. 2022	Oct. 2022	Nov. 2022	Dec. 2022	Jan. 2023	Feb. 2023
NUMBER OF UNEMPLOYED									
Job losers and persons who completed temporary jobs.....	3,473	3,226	3,249	3,004	2,695	2,761	2,629	2,529	2,752
On temporary layoff.....	1,164	1,238	1,117	879	853	806	814	734	816
Not on temporary layoff.....	2,309	1,987	2,132	2,125	1,842	1,956	1,815	1,795	1,935
Permanent job losers.....	1,641	1,330	1,482	1,551	1,267	1,351	1,339	1,257	1,380
Persons who completed temporary jobs.....	668	657	650	574	575	605	476	538	555
Job leavers.....	964	881	892	964	861	829	825	884	891
Reentrants.....	1,971	1,807	1,862	1,971	1,873	1,798	1,767	1,817	1,847
New entrants.....	374	465	462	429	494	556	497	531	515
PERCENT DISTRIBUTION									
Job losers and persons who completed temporary jobs.....	51.2	50.6	50.3	47.2	45.5	46.4	46.0	43.9	45.8
On temporary layoff.....	17.2	19.4	17.3	13.8	14.4	13.5	14.2	12.7	13.6
Not on temporary layoff.....	34.0	31.2	33.0	33.4	31.1	32.9	31.7	31.2	32.2
Job leavers.....	14.2	13.8	13.8	15.1	14.5	13.9	14.4	15.3	14.8
Reentrants.....	29.1	28.3	28.8	30.9	31.6	30.2	30.9	31.5	30.8
New entrants.....	5.5	7.3	7.1	6.7	8.3	9.4	8.7	9.2	8.6
UNEMPLOYED AS A PERCENT OF THE CIVILIAN LABOR FORCE									
Job losers and persons who completed temporary jobs.....	2.1	2.0	2.0	1.8	1.6	1.7	1.6	1.5	1.7
Job leavers.....	0.6	0.5	0.5	0.6	0.5	0.5	0.5	0.5	0.5
Reentrants.....	1.2	1.1	1.1	1.2	1.1	1.1	1.1	1.1	1.1
New entrants.....	0.2	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3

NOTE: Detail for the seasonally adjusted data shown in this table will not necessarily add to total unemployed in table A-1 because of the independent seasonal adjustment of the various series. Updated population controls are introduced annually with the release of January data.

HOUSEHOLD DATA

Table A-12. Unemployed persons by duration of unemployment

(Numbers in thousands)

Duration	Not seasonally adjusted			Seasonally adjusted					
	Feb. 2022	Jan. 2023	Feb. 2023	Feb. 2022	Oct. 2022	Nov. 2022	Dec. 2022	Jan. 2023	Feb. 2023
NUMBER OF UNEMPLOYED									
Less than 5 weeks.....	1,980	2,358	2,130	2,142	2,215	2,244	2,233	1,946	2,289
5 to 14 weeks.....	2,158	1,965	2,247	1,803	1,774	1,694	1,639	1,785	1,845
15 weeks and over.....	2,644	2,055	2,089	2,418	1,987	2,036	1,895	2,001	1,862
15 to 26 weeks.....	879	926	957	726	817	821	826	890	805
27 weeks and over.....	1,765	1,129	1,131	1,691	1,169	1,215	1,069	1,111	1,057
Average (mean) duration, in weeks.....	26.0	19.1	19.1	26.2	20.8	21.4	19.5	20.4	19.3
Median duration, in weeks.....	9.9	8.4	8.9	9.3	8.4	8.8	8.9	9.1	8.3
PERCENT DISTRIBUTION									
Less than 5 weeks.....	29.2	37.0	32.9	33.7	37.1	37.6	38.7	33.9	38.2
5 to 14 weeks.....	31.6	30.8	34.7	28.3	29.7	28.4	28.4	31.1	30.8
15 weeks and over.....	39.0	32.2	32.3	38.0	33.2	34.1	32.9	34.9	31.1
15 to 26 weeks.....	13.0	14.5	14.8	11.4	13.7	13.7	14.3	15.5	13.4
27 weeks and over.....	26.0	17.7	17.5	26.6	19.6	20.3	18.5	19.4	17.6

NOTE: Detail for the seasonally adjusted data shown in this table will not necessarily add to total unemployed in table A-1 because of the independent seasonal adjustment of the various series. Updated population controls are introduced annually with the release of January data.

HOUSEHOLD DATA

Table A-13. Employed and unemployed persons by occupation, not seasonally adjusted

(Numbers in thousands)

Occupation	Employed		Unemployed		Unemployment rates	
	Feb. 2022	Feb. 2023	Feb. 2022	Feb. 2023	Feb. 2022	Feb. 2023
Total, 16 years and over ¹	156,942	159,713	6,782	6,465	4.1	3.9
Management, professional, and related occupations.....	67,754	69,986	1,490	1,408	2.2	2.0
Management, business, and financial operations occupations.....	29,131	30,137	638	632	2.1	2.1
Professional and related occupations.....	38,624	39,848	852	774	2.2	1.9
Service occupations.....	24,228	25,292	1,400	1,295	5.5	4.9
Sales and office occupations.....	31,383	30,220	1,311	1,327	4.0	4.2
Sales and related occupations.....	14,927	14,185	565	596	3.6	4.0
Office and administrative support occupations.....	16,456	16,035	747	731	4.3	4.4
Natural resources, construction, and maintenance occupations.....	14,091	14,190	917	902	6.1	6.0
Farming, fishing, and forestry occupations.....	963	946	119	85	11.0	8.2
Construction and extraction occupations.....	8,286	8,474	664	713	7.4	7.8
Installation, maintenance, and repair occupations.....	4,842	4,769	134	104	2.7	2.1
Production, transportation, and material moving occupations.....	19,485	20,025	1,270	1,073	6.1	5.1
Production occupations.....	7,993	8,380	413	421	4.9	4.8
Transportation and material moving occupations.....	11,492	11,645	856	651	6.9	5.3

¹ Persons with no previous work experience and persons whose last job was in the U.S. Armed Forces are included in the unemployed total.

NOTE: Updated population controls are introduced annually with the release of January data. Effective with January 2020 data, occupations reflect the introduction of the 2018 Census occupational classification system into the Current Population Survey, or household survey. This classification system is derived from the 2018 Standard Occupational Classification (SOC). No historical data have been revised. Data for 2020 are not strictly comparable with earlier years.

HOUSEHOLD DATA

Table A-14. Unemployed persons by industry and class of worker, not seasonally adjusted

Industry and class of worker	Number of unemployed persons (in thousands)		Unemployment rates	
	Feb. 2022	Feb. 2023	Feb. 2022	Feb. 2023
Total, 16 years and over ¹	6,782	6,465	4.1	3.9
Nonagricultural private wage and salary workers.....	5,479	5,218	4.2	4.0
Mining, quarrying, and oil and gas extraction.....	29	17	5.0	3.0
Construction.....	677	708	6.7	6.6
Manufacturing.....	497	464	3.2	3.0
Durable goods.....	324	268	3.3	2.6
Nondurable goods.....	174	196	3.1	3.6
Wholesale and retail trade.....	983	1,039	4.9	5.4
Transportation and utilities.....	409	377	5.1	4.5
Information.....	91	87	3.7	3.2
Financial activities.....	246	227	2.4	2.2
Professional and business services.....	737	801	3.9	4.2
Education and health services.....	754	611	3.0	2.4
Leisure and hospitality.....	849	693	6.6	5.2
Other services.....	207	194	3.5	3.1
Agriculture and related private wage and salary workers.....	144	105	9.4	7.1
Government workers.....	386	374	1.8	1.7
Self-employed workers, unincorporated, and unpaid family workers.....	399	306	3.9	3.0

¹ Persons with no previous work experience and persons whose last job was in the U.S. Armed Forces are included in the unemployed total.
NOTE: Updated population controls are introduced annually with the release of January data. Effective with January 2020 data, industries reflect the introduction of the 2017 Census industry classification system into the Current Population Survey. This industry classification system is derived from the 2017 North American Industry Classification System (NAICS). No historical data have been revised.

HOUSEHOLD DATA

Table A-15. Alternative measures of labor underutilization

[Percent]

Measure	Not seasonally adjusted			Seasonally adjusted					
	Feb. 2022	Jan. 2023	Feb. 2023	Feb. 2022	Oct. 2022	Nov. 2022	Dec. 2022	Jan. 2023	Feb. 2023
U-1 Persons unemployed 15 weeks or longer, as a percent of the civilian labor force.....	1.6	1.2	1.3	1.5	1.2	1.2	1.1	1.2	1.1
U-2 Job losers and persons who completed temporary jobs, as a percent of the civilian labor force.....	2.1	2.0	2.0	1.8	1.6	1.7	1.6	1.5	1.7
U-3 Total unemployed, as a percent of the civilian labor force (official unemployment rate).....	4.1	3.9	3.9	3.8	3.7	3.6	3.5	3.4	3.6
U-4 Total unemployed plus discouraged workers, as a percent of the civilian labor force plus discouraged workers.....	4.4	4.1	4.1	4.1	3.9	3.9	3.7	3.6	3.8
U-5 Total unemployed, plus discouraged workers, plus all other persons marginally attached to the labor force, as a percent of the civilian labor force plus all persons marginally attached to the labor force.....	5.0	4.7	4.7	4.7	4.5	4.5	4.2	4.2	4.4
U-6 Total unemployed, plus all persons marginally attached to the labor force, plus total employed part time for economic reasons, as a percent of the civilian labor force plus all persons marginally attached to the labor force.....	7.6	7.4	7.3	7.2	6.7	6.7	6.5	6.6	6.8

NOTE: Persons marginally attached to the labor force are those who currently are neither working nor looking for work but indicate that they want and are available for a job and have looked for work sometime in the past 12 months. Discouraged workers, a subset of the marginally attached, have given a job-market related reason for not currently looking for work. Persons employed part time for economic reasons are those who want and are available for full-time work but have had to settle for a part-time schedule. Updated population controls are introduced annually with the release of January data.

HOUSEHOLD DATA

Table A-16. Persons not in the labor force and multiple jobholders by sex, not seasonally adjusted

(Numbers in thousands)

Category	Total		Men		Women	
	Feb. 2022	Feb. 2023	Feb. 2022	Feb. 2023	Feb. 2022	Feb. 2023
NOT IN THE LABOR FORCE						
Total not in the labor force.....	99,600	99,934	41,024	41,689	58,575	58,245
Persons who currently want a job.....	5,299	4,967	2,493	2,514	2,806	2,472
Marginally attached to the labor force ¹	1,496	1,420	749	771	747	649
Discouraged workers ²	393	361	214	202	178	159
Other persons marginally attached to the labor force ³ ..	1,103	1,059	535	569	569	490
MULTIPLE JOBHOLDERS						
Total multiple jobholders ⁴	7,557	8,041	3,682	4,014	3,875	4,027
Percent of total employed.....	4.8	5.0	4.4	4.7	5.3	5.4
Primary job full time, secondary job part time.....	4,243	4,415	2,286	2,379	1,957	2,036
Primary and secondary jobs both part time.....	1,993	2,051	696	824	1,297	1,227
Primary and secondary jobs both full time.....	288	388	173	236	115	152
Hours vary on primary or secondary job.....	997	1,142	508	562	489	580

¹ Data refer to persons who want a job, have searched for work during the prior 12 months, and were available to take a job during the reference week, but had not looked for work in the past 4 weeks.

² Includes those who did not actively look for work in the prior 4 weeks for reasons such as thinks no work available, could not find work, lacks schooling or training, employer thinks too young or old, and other types of discrimination.

³ Includes those who did not actively look for work in the prior 4 weeks for such reasons as school or family responsibilities, ill health, and transportation problems, as well as a number for whom reason for nonparticipation was not determined.

⁴ Includes a small number of persons who work part time on their primary job and full time on their secondary job(s), not shown separately.

NOTE: Updated population controls are introduced annually with the release of January data.

ESTABLISHMENT DATA

Table B-1. Employees on nonfarm payrolls by industry sector and selected industry detail

(In thousands)

Industry	Not seasonally adjusted				Seasonally adjusted				Change from Jan. 2023 - Feb. 2023 ^a
	Feb. 2022	Dec. 2022	Jan. 2023 ^b	Feb. 2023 ^b	Feb. 2022	Dec. 2022	Jan. 2023 ^b	Feb. 2023 ^b	
Total nonfarm.....	149,606	155,344	152,836	153,955	151,010	154,535	155,039	155,350	311
Total private.....	127,338	132,746	130,512	131,234	126,928	132,204	132,590	132,855	265
Goods-producing.....	20,523	21,377	21,062	21,156	20,906	21,461	21,512	21,532	20
Mining and logging.....	574	626	622	622	583	628	631	631	0
Logging.....	45.1	45.5	46.4	46.4	44.7	45.7	46.2	45.9	-0.3
Mining, quarrying, and oil and gas extraction.....	529.2	580.5	575.1	575.9	538.2	582.4	585.1	584.7	-0.4
Oil and gas extraction.....	111.1	118.0	117.3	117.1	111.9	117.2	118.1	118.0	-0.1
Mining (except oil and gas).....	174.3	183.9	180.3	181.9	180.4	186.5	186.3	187.4	1.1
Coal mining.....	39.6	40.8	40.9	41.1	39.6	41.1	41.0	41.1	0.1
Metal ore mining.....	41.9	43.2	43.4	43.5	42.3	43.5	43.7	43.7	0.0
Nonmetallic mineral mining and quarrying.....	92.8	99.9	96.0	97.3	98.5	102.0	101.6	102.5	0.9
Support activities for mining.....	243.8	278.6	277.5	276.9	245.9	278.7	280.7	279.3	-1.4
Construction.....	7,349	7,763	7,549	7,613	7,669	7,859	7,894	7,918	24
Construction of buildings.....	1,682.9	1,773.2	1,751.1	1,756.6	1,732.2	1,785.9	1,788.0	1,800.9	2.9
Residential building construction.....	886.9	928.2	911.0	915.9	910.6	934.3	937.3	938.5	1.2
Nonresidential building construction.....	796.0	845.0	840.1	840.7	821.6	851.6	860.7	862.4	1.7
Heavy and civil engineering construction.....	972.1	1,040.2	986.5	1,009.0	1,061.5	1,081.5	1,085.9	1,093.6	7.7
Specialty trade contractors.....	4,693.7	4,949.3	4,811.1	4,846.9	4,875.1	4,991.4	5,009.9	5,023.3	13.4
Residential specialty trade contractors.....	2,196.9	2,301.4	2,235.1	2,262.9	2,274.1	2,324.8	2,325.3	2,336.5	11.2
Nonresidential specialty trade contractors.....	2,496.8	2,647.9	2,576.0	2,584.0	2,601.0	2,666.6	2,684.6	2,686.8	2.2
Manufacturing.....	12,600	12,988	12,891	12,921	12,654	12,974	12,987	12,983	-4
Durable goods.....	7,835	8,107	8,052	8,069	7,859	8,096	8,095	8,095	0
Wood product manufacturing.....	424.6	429.2	426.8	426.0	425.7	429.3	429.0	428.0	-1.0
Nonmetallic mineral product manufacturing.....	406.5	428.9	423.5	424.9	420.5	432.4	434.1	435.6	1.5
Primary metal manufacturing.....	360.7	368.6	364.3	365.0	360.2	366.5	365.4	365.0	-0.4
Fabricated metal product manufacturing.....	1,412.5	1,448.6	1,443.8	1,444.0	1,417.5	1,449.4	1,450.9	1,449.8	-1.1
Machinery manufacturing.....	1,087.9	1,124.6	1,121.0	1,123.3	1,089.9	1,123.0	1,124.0	1,124.4	0.4
Computer and electronic product manufacturing.....	1,072.9	1,102.4	1,096.0	1,100.8	1,074.3	1,100.7	1,100.8	1,103.6	2.8
Computer and peripheral equipment manufacturing.....	160.0	168.2	167.0	167.1	160.0	167.4	167.3	167.8	0.5
Communications equipment manufacturing.....	85.6	84.5	83.7	84.4	85.7	85.2	84.1	84.6	0.5
Semiconductor and other electronic component manufacturing.....	377.0	393.8	391.9	392.6	377.5	393.9	394.3	394.3	0.0
Navigational, measuring, electromedical, and control instruments manufacturing.....	419.6	423.4	421.0	423.9	420.0	422.0	422.3	423.8	1.5
Manufacturing and reproducing magnetic and optical media and audio and video equipment manufacturing.....	30.7	32.5	32.4	32.8	31.1	32.3	32.8	33.1	0.3
Electrical equipment, appliance, and component manufacturing.....	397.9	403.9	405.1	403.7	399.0	405.2	406.7	406.6	-0.1
Transportation equipment manufacturing ^c	1,668.2	1,792.0	1,769.8	1,780.4	1,664.9	1,782.4	1,776.3	1,777.6	1.3
Motor vehicles and parts ^c	971.9	1,060.0	1,040.2	1,045.1	967.8	1,048.1	1,043.0	1,043.2	0.2
Furniture and related product manufacturing.....	382.3	374.7	369.6	369.3	382.0	373.2	372.5	369.7	-2.8
Miscellaneous manufacturing.....	621.0	634.4	631.4	631.9	625.1	634.3	635.7	635.1	-0.6
Nondurable goods.....	4,765	4,881	4,839	4,852	4,795	4,878	4,892	4,888	-4
Food manufacturing.....	1,664.6	1,725.4	1,709.2	1,715.1	1,675.7	1,717.3	1,726.2	1,725.1	-1.1
Textile mills.....	98.3	96.0	96.0	94.1	99.1	96.0	96.7	95.0	-1.7
Textile product mills.....	105.4	102.3	103.3	103.1	105.8	102.6	103.6	103.5	-0.1
Apparel manufacturing.....	93.4	92.6	92.2	92.9	93.5	91.9	93.7	92.4	-1.3
Paper manufacturing.....	360.5	359.0	356.8	356.0	361.5	356.7	357.3	356.2	-1.1
Printing and related support activities.....	373.8	385.5	377.7	378.9	377.2	381.5	381.3	382.1	0.8
Petroleum and coal products manufacturing.....	100.9	102.0	100.2	101.6	104.5	104.0	104.4	105.4	1.0
Chemical manufacturing.....	890.6	915.2	909.9	915.7	890.3	916.1	914.7	917.2	2.5
Plastics and rubber products manufacturing.....	747.5	755.4	750.2	748.1	745.9	754.7	755.8	751.1	-4.7

See footnotes at end of table.

ESTABLISHMENT DATA
Table B-1. Employees on nonfarm payrolls by industry sector and selected industry detail
— Continued
(In thousands)

Industry	Not seasonally adjusted				Seasonally adjusted				
	Feb. 2022	Dec. 2022	Jan. 2023 ^a	Feb. 2023 ^b	Feb. 2022	Dec. 2022	Jan. 2023 ^a	Feb. 2023 ^b	Change from Jan. 2023 - Feb. 2023 ^b
Nondurable goods - Continued									
Beverage, tobacco, and leather and allied product manufacturing.....	330.2	347.8	343.2	346.6	341.7	355.3	358.4	360.3	1.9
Private service-providing.....	106,815	111,369	109,450	110,078	108,022	110,743	111,078	111,323	245
Trade, transportation, and utilities.....	28,294	29,508	28,749	28,835	28,561	28,767	28,824	28,862	38
Wholesale trade.....	5,847.2	6,032.5	5,989.0	6,009.6	5,882.0	6,028.8	6,037.7	6,048.8	11.1
Merchant wholesalers, durable goods.....	3,227.2	3,331.1	3,316.4	3,326.7	3,238.8	3,330.0	3,336.3	3,341.3	5.0
Merchant wholesalers, nondurable goods.....	2,119.1	2,175.6	2,151.1	2,157.2	2,138.8	2,174.6	2,176.3	2,179.3	3.0
Wholesale trade agents and brokers.....	500.9	525.8	521.5	525.7	504.4	524.2	525.1	528.2	3.1
Retail trade.....	15,351.8	15,868.1	15,454.3	15,406.7	15,564.1	15,477.8	15,511.7	15,561.8	50.1
Motor vehicle and parts dealers.....	1,976.4	2,019.7	2,003.7	2,009.7	1,992.6	2,026.1	2,027.2	2,026.7	-0.5
Automobile dealers.....	1,244.6	1,257.3	1,249.5	1,253.2	1,247.9	1,259.7	1,259.4	1,258.8	-0.6
Other motor vehicle dealers.....	166.4	172.7	168.7	170.5	174.3	178.6	179.0	178.4	-0.6
Automotive parts, accessories, and tire retailers.....	565.4	589.7	585.5	586.0	570.4	587.7	588.8	589.5	0.7
Building material and garden equipment and supplies dealers.....	1,388.9	1,386.9	1,357.3	1,361.8	1,426.8	1,416.4	1,411.6	1,406.6	-3.0
Food and beverage retailers.....	3,161.8	3,259.9	3,232.4	3,235.8	3,169.4	3,231.9	3,244.8	3,249.3	4.5
Furniture, home furnishings, electronics, and appliance retailers.....	923.3	906.0	885.6	874.8	877.5	881.6	881.6	882.1	0.5
Furniture and home furnishings retailers.....	468.5	462.6	451.7	448.2	470.9	448.2	447.4	446.6	-0.8
Electronics and appliance retailers.....	454.8	443.4	433.9	426.6	454.2	426.7	427.9	427.4	-0.5
General merchandise retailers.....	3,179.5	3,269.2	3,114.6	3,121.6	3,240.6	3,068.4	3,079.0	3,118.2	39.2
Department stores.....	956.7	1,038.0	952.3	924.8	989.2	917.4	923.3	937.9	14.6
Warehouse clubs, supercenters, and other general merchandise retailers.....	2,222.8	2,231.2	2,162.3	2,196.8	2,251.4	2,151.0	2,155.7	2,180.2	24.5
Health and personal care retailers.....	1,110.7	1,139.7	1,118.9	1,108.6	1,111.9	1,114.1	1,109.0	1,110.8	1.8
Gasoline stations and fuel dealers.....	1,011.0	1,055.6	1,051.4	1,050.8	1,025.6	1,055.4	1,060.4	1,061.8	1.4
Clothing, clothing accessories, shoe, and jewelry retailers.....	1,102.6	1,239.9	1,169.0	1,131.7	1,137.8	1,153.0	1,160.0	1,166.8	6.8
Sporting goods, hobby, musical instrument, book, and miscellaneous retailers.....	1,497.6	1,591.2	1,521.4	1,511.9	1,529.8	1,535.0	1,538.1	1,537.5	-0.6
Transportation and warehousing.....	6,546.1	7,049.5	6,754.3	6,670.0	6,563.3	6,704.9	6,721.2	6,699.7	-21.5
Air transportation.....	478.9	520.5	522.3	523.8	482.7	523.6	526.6	528.0	1.4
Rail transportation.....	145.2	148.7	148.6	148.6	145.8	148.8	149.1	148.9	-0.2
Water transportation.....	59.5	64.5	63.0	63.9	61.4	65.7	66.2	67.0	0.8
Truck transportation.....	1,542.0	1,611.0	1,586.4	1,575.8	1,564.9	1,607.1	1,608.4	1,599.9	-8.5
Transit and ground passenger transportation.....	415.7	444.0	443.0	444.7	405.0	428.7	436.5	433.5	-3.0
Pipeline transportation.....	50.6	48.1	47.3	47.9	51.1	47.9	48.0	48.4	0.4
Sound and sightseeing transportation.....	24.0	27.5	23.6	23.7	29.7	31.2	30.6	30.6	0.0
Support activities for transportation.....	777.4	820.7	813.6	810.6	776.4	809.0	816.4	812.4	-4.0
Couriers and messengers.....	1,129.6	1,383.6	1,165.1	1,064.7	1,132.9	1,109.5	1,104.5	1,101.6	-2.9
Warehousing and storage.....	1,923.2	1,980.9	1,941.4	1,936.3	1,913.4	1,933.4	1,934.9	1,929.4	-5.5
Utilities.....	549.2	555.5	551.7	549.0	551.2	555.3	553.2	552.1	-1.1
Information.....	2,974	3,139	3,050	3,044	2,992	3,120	3,100	3,075	-25
Motion picture and sound recording industries.....	430.0	470.1	417.8	421.3	444.3	461.7	451.1	442.2	-8.9
Publishing industries.....	912.1	955.5	938.1	934.1	916.6	952.3	946.5	941.4	-5.1
Broadcasting and content providers.....	355.6	359.9	354.8	353.2	354.3	359.6	357.4	354.5	-2.9
Telecommunications.....	656.4	662.7	651.8	651.9	654.3	658.1	654.8	652.1	-2.7
Computing infrastructure providers, data processing, web hosting, and related services.....	445.7	490.0	485.7	484.1	445.6	486.7	487.1	483.1	-4.0
Web search portals, libraries, archives, and other information services.....	175.6	200.8	201.7	199.2	176.6	201.3	203.0	201.6	-1.4
Financial activities.....	8,931	9,132	9,049	9,047	8,982	9,101	9,106	9,105	-1
Finance and insurance.....	6,629.1	6,716.2	6,682.3	6,675.1	6,634.4	6,691.7	6,694.7	6,684.5	-10.2
Monetary authorities-central bank.....	21.1	21.8	21.7	21.9	21.1	21.8	21.9	22.0	0.1
Credit intermediation and related activities.....	2,705.8	2,684.9	2,679.0	2,672.9	2,705.3	2,681.3	2,679.5	2,672.8	-6.7

See footnotes at end of table.

ESTABLISHMENT DATA
Table B-1. Employees on nonfarm payrolls by industry sector and selected industry detail
— Continued
(In thousands)

Industry	Not seasonally adjusted				Seasonally adjusted				Change from Jan. 2023 - Feb. 2023 ^a
	Feb. 2022	Dec. 2022	Jan. 2023 ^a	Feb. 2023 ^a	Feb. 2022	Dec. 2022	Jan. 2023 ^a	Feb. 2023 ^a	
Credit intermediation and related - Continued									
Depository credit intermediation ¹	1,755.4	1,784.7	1,782.7	1,786.3	1,754.6	1,783.4	1,783.3	1,786.4	3.1
Commercial banking.....	1,366.4	1,376.9	1,376.1	1,379.8	1,364.6	1,376.6	1,376.0	1,377.3	1.3
Nondepository credit intermediation.....	613.8	579.5	576.9	569.8	615.2	577.6	578.5	571.7	-6.8
Activities related to credit intermediation.....	336.6	320.7	318.4	316.8	335.5	320.3	317.7	314.7	-3.0
Securities, commodity contracts, funds, trusts, and other financial vehicles, investments, and related activities.....	1,020.3	1,073.5	1,065.3	1,066.2	1,025.7	1,068.3	1,071.3	1,071.9	0.6
Insurance carriers and related activities.....	2,861.9	2,936.0	2,917.3	2,914.1	2,882.3	2,920.3	2,922.0	2,917.8	-4.2
Real estate and rental and leasing.....	2,302.3	2,416.1	2,366.4	2,371.9	2,347.4	2,409.2	2,410.9	2,420.3	9.4
Real estate.....	1,776.2	1,855.6	1,825.0	1,826.3	1,804.4	1,844.9	1,851.1	1,855.0	3.9
Rental and leasing services.....	504.4	537.7	519.5	523.5	520.9	541.8	537.4	542.8	5.4
Lessors of nonfinancial intangible assets (except copyrighted works).....	21.7	22.8	21.9	22.1	22.1	22.5	22.4	22.5	0.1
Professional and business services.....	22,086	22,907	22,474	22,630	22,306	22,814	22,867	22,912	45
Professional, scientific, and technical services.....	10,332.2	10,750.7	10,697.0	10,773.7	10,302.8	10,713.5	10,741.2	10,760.7	19.5
Legal services.....	1,163.6	1,190.0	1,174.5	1,174.2	1,169.0	1,180.4	1,181.2	1,182.7	1.5
Accounting, tax preparation, bookkeeping, and payroll services.....	1,157.3	1,130.5	1,164.8	1,213.1	1,072.8	1,131.7	1,137.2	1,136.7	-0.5
Architectural, engineering, and related services.....	1,557.8	1,645.5	1,629.6	1,631.4	1,576.5	1,644.7	1,650.3	1,654.9	4.6
Specialized design services.....	144.8	159.3	155.5	158.0	146.7	157.2	158.2	159.8	1.6
Computer systems design and related services.....	2,411.5	2,492.2	2,481.4	2,482.8	2,416.3	2,493.4	2,486.8	2,484.4	-2.4
Management, scientific, and technical consulting services.....	1,737.3	1,850.9	1,830.9	1,846.9	1,744.9	1,832.2	1,845.2	1,857.1	11.9
Scientific research and development services.....	864.4	914.5	910.3	917.3	870.9	913.9	917.7	921.4	3.7
Advertising, public relations, and related services.....	474.7	493.9	489.1	490.4	474.9	493.3	495.3	494.3	-1.0
Other professional, scientific, and technical services.....	820.8	873.9	860.9	859.6	828.6	866.7	869.4	869.5	0.1
Management of companies and enterprises.....	2,464.8	2,523.7	2,511.5	2,508.3	2,475.1	2,516.3	2,519.5	2,520.6	1.1
Administrative and support and waste management and remediation services.....	8,289.3	8,632.1	8,285.3	8,347.8	8,528.5	8,584.0	8,606.4	8,630.4	24.0
Administrative and support services.....	8,289.3	8,147.9	8,789.4	8,866.3	9,061.5	9,101.6	9,121.2	9,142.0	20.8
Office administrative services.....	569.4	610.0	606.6	612.9	574.5	612.8	615.0	619.1	4.1
Facilities support services.....	153.3	158.7	159.2	160.0	154.1	158.4	159.3	160.3	1.0
Employment services ¹	3,858.5	3,945.7	3,720.5	3,770.3	3,902.3	3,839.5	3,840.4	3,851.3	10.9
Temporary help services.....	3,112.0	3,147.1	2,944.4	2,998.0	3,148.7	3,037.9	3,053.2	3,060.0	6.8
Business support services.....	823.2	784.8	772.7	764.2	820.4	766.2	766.3	763.1	-3.2
Travel arrangement and reservation services.....	160.1	179.2	178.0	177.2	164.9	180.9	181.9	180.8	-1.1
Investigation and security services.....	936.8	979.2	967.9	966.1	942.1	970.9	979.2	975.5	-3.7
Services to buildings and dwellings.....	2,015.1	2,151.1	2,053.2	2,080.9	2,183.1	2,230.2	2,237.6	2,247.9	10.3
Other support services.....	312.9	339.2	331.3	334.7	320.2	342.8	341.5	344.1	2.6
Waste management and remediation services.....	460.0	484.2	475.9	481.5	467.0	482.4	485.2	486.4	3.2
Private education and health services.....	24,078	24,960	24,749	25,111	23,996	24,827	24,934	25,008	74
Private educational services.....	3,852.0	3,920.4	3,779.0	4,035.2	3,732.8	3,856.3	3,888.4	3,899.8	11.4
Health care and social assistance.....	20,225.9	21,039.2	20,970.1	21,076.1	20,263.5	20,970.2	21,045.8	21,108.6	62.8
Health care ²	16,064.1	16,660.1	16,585.5	16,657.4	16,098.5	16,591.3	16,644.1	16,688.3	44.2
Ambulatory health care services.....	8,007.8	8,314.9	8,256.5	8,289.1	8,020.8	8,272.8	8,294.2	8,305.3	11.1
Offices of physicians.....	2,772.6	2,877.4	2,851.2	2,857.7	2,778.3	2,855.9	2,862.3	2,864.1	1.8
Offices of dentists.....	1,003.4	1,031.4	1,027.3	1,024.0	1,004.9	1,031.2	1,028.8	1,027.9	-0.9
Offices of other health practitioners.....	1,062.0	1,114.6	1,106.4	1,117.9	1,063.1	1,110.2	1,114.1	1,120.7	6.6
Outpatient care centers.....	1,019.0	1,058.2	1,058.1	1,059.2	1,019.1	1,053.0	1,060.2	1,059.4	-0.8
Medical and diagnostic laboratories.....	323.1	321.1	321.8	324.8	323.5	320.4	322.2	324.3	2.1
Home health care services.....	1,506.8	1,575.7	1,556.9	1,572.9	1,513.3	1,567.7	1,571.2	1,576.5	5.3
Other ambulatory health care services.....	320.9	336.5	334.8	332.6	318.7	334.4	335.9	332.4	-2.9
Hospitals.....	5,099.1	5,262.8	5,247.6	5,273.2	5,105.7	5,245.3	5,258.5	5,277.9	19.4

See footnotes at end of table.

ESTABLISHMENT DATA

Table B-1. Employees on nonfarm payrolls by industry sector and selected industry detail

— Continued

(In thousands)

Industry	Not seasonally adjusted				Seasonally adjusted				
	Feb. 2022	Dec. 2022	Jan. 2023 ^p	Feb. 2023 ^p	Feb. 2022	Dec. 2022	Jan. 2023 ^p	Feb. 2023 ^p	Change from Jan. 2023 - Feb. 2023 ^p
Health care - Continued									
Nursing and residential care facilities.....	2,957.2	3,082.4	3,081.4	3,095.1	2,972.0	3,073.2	3,091.4	3,105.1	13.7
Skilled nursing care facilities.....	1,335.3	1,382.1	1,379.8	1,382.8	1,343.3	1,375.9	1,381.4	1,386.8	5.4
Residential intellectual and developmental disability, mental health, and substance abuse facilities.....	596.2	623.5	620.3	620.6	597.4	621.7	623.8	623.4	-0.4
Continuing care retirement communities and assisted living facilities for the elderly.....	874.5	923.0	926.6	936.5	880.0	921.2	930.7	940.3	9.6
Other residential care facilities.....	151.2	153.8	154.7	155.2	151.3	154.4	155.5	154.6	-0.9
Social assistance.....	4,161.8	4,379.1	4,384.6	4,418.7	4,165.0	4,378.9	4,401.7	4,420.3	18.6
Individual and family services.....	2,756.2	2,912.0	2,917.1	2,938.9	2,759.4	2,913.6	2,926.8	2,941.3	14.5
Community food and housing, and emergency and other relief services.....	199.7	211.1	211.2	212.6	199.3	208.9	210.9	210.6	-0.3
Vocational rehabilitation services.....	268.1	274.1	273.1	275.6	272.0	275.1	278.1	278.5	0.4
Child care services.....	937.8	981.9	983.2	991.6	934.3	981.3	985.8	990.0	4.2
Leisure and hospitality.....	14,864	15,947	15,638	15,844	15,536	16,316	16,430	16,535	105
Arts, entertainment, and recreation.....	2,013.6	2,241.7	2,142.5	2,191.9	2,241.8	2,397.8	2,408.2	2,429.6	21.4
Performing arts, spectator sports, and related industries.....	433.2	487.5	446.0	474.8	476.9	513.4	513.5	520.5	7.0
Museums, historical sites, and similar institutions.....	139.4	161.8	152.3	153.8	153.1	164.8	166.0	167.5	1.5
Amusement, gambling, and recreation industries.....	1,441.0	1,592.4	1,544.2	1,563.3	1,611.8	1,719.6	1,728.7	1,741.6	12.9
Accommodation and food services.....	12,850.6	13,705.5	13,495.2	13,651.6	13,294.2	13,918.1	14,021.3	14,105.6	84.3
Accommodation.....	1,612.9	1,770.5	1,751.7	1,775.4	1,710.8	1,846.2	1,860.6	1,875.0	14.4
Food services and drinking places.....	11,237.7	11,935.0	11,743.5	11,876.2	11,583.4	12,071.9	12,160.7	12,230.6	69.9
Other services.....	5,588	5,778	5,741	5,767	5,649	5,798	5,817	5,826	9
Repair and maintenance.....	1,366.9	1,410.8	1,403.9	1,412.1	1,380.2	1,417.7	1,420.7	1,424.9	4.2
Personal and laundry services.....	1,435.7	1,520.9	1,508.9	1,513.2	1,454.2	1,521.6	1,532.5	1,531.8	-0.7
Religious, grantmaking, civic, professional, and similar organizations.....	2,785.6	2,846.4	2,827.7	2,841.8	2,814.3	2,859.1	2,864.0	2,869.0	5.0
Government.....	22,268	22,598	22,324	22,721	22,082	22,331	22,449	22,495	46
Federal.....	2,860	2,890	2,871	2,884	2,874	2,874	2,881	2,888	7
Federal, except U.S. Postal Service.....	2,251.4	2,277.9	2,271.6	2,280.0	2,266.8	2,278.8	2,283.2	2,287.4	4.2
U.S. Postal Service.....	608.5	611.7	599.2	604.1	607.5	595.5	597.5	600.9	3.4
State government.....	5,183	5,167	5,066	5,269	5,088	5,087	5,162	5,164	2
State government education.....	2,553.5	2,511.3	2,413.5	2,603.7	2,447.4	2,421.5	2,492.4	2,488.1	-4.3
State government, excluding education.....	2,629.1	2,655.5	2,652.8	2,665.1	2,640.7	2,665.8	2,669.5	2,676.3	6.8
Local government.....	14,225	14,541	14,387	14,568	14,120	14,370	14,406	14,443	37
Local government education.....	7,975.4	8,114.9	7,995.0	8,153.9	7,745.9	7,868.1	7,888.7	7,911.8	23.1
Local government, excluding education.....	6,249.1	6,426.5	6,391.6	6,414.2	6,373.6	6,501.6	6,517.3	6,531.3	14.0

¹ Includes other industries, not shown separately.² Includes motor vehicles, motor vehicle bodies and trailers, and motor vehicle parts.³ Includes ambulatory health care services, hospitals, and nursing and residential care facilities.^p Preliminary

NOTE: Data have been revised to reflect March 2022 benchmark levels and updated seasonal adjustment factors.

ESTABLISHMENT DATA**Table B-2. Average weekly hours and overtime of all employees on private nonfarm payrolls by industry sector, seasonally adjusted**

Industry	Feb. 2022	Dec. 2022	Jan. 2023 ^p	Feb. 2023 ^p
AVERAGE WEEKLY HOURS				
Total private.....	34.7	34.4	34.6	34.5
Goods-producing.....	40.3	39.7	40.2	40.0
Mining and logging.....	45.4	45.5	46.2	45.7
Construction.....	39.4	38.6	39.2	39.0
Manufacturing.....	40.7	40.1	40.5	40.3
Durable goods.....	41.0	40.6	41.0	40.9
Nondurable goods.....	40.1	39.4	39.8	39.4
Private service-providing.....	33.6	33.3	33.6	33.4
Trade, transportation, and utilities.....	34.2	34.1	34.3	34.1
Wholesale trade.....	39.2	38.7	38.9	38.8
Retail trade.....	30.4	30.2	30.4	30.1
Transportation and warehousing.....	38.0	38.4	38.6	38.5
Utilities.....	42.2	41.8	41.9	42.1
Information.....	36.9	36.5	36.6	36.4
Financial activities.....	37.5	37.4	37.4	37.3
Professional and business services.....	36.8	36.4	36.6	36.6
Private education and health services.....	33.5	33.3	33.5	33.4
Leisure and hospitality.....	25.9	25.3	25.8	25.5
Other services.....	32.2	32.3	32.3	32.3
AVERAGE OVERTIME HOURS				
Manufacturing.....	3.6	2.9	3.1	3.0
Durable goods.....	3.6	3.1	3.1	3.1
Nondurable goods.....	3.5	2.7	3.0	2.8

p Preliminary

NOTE: Data have been revised to reflect March 2022 benchmark levels and updated seasonal adjustment factors.

ESTABLISHMENT DATA

Table B-3. Average hourly and weekly earnings of all employees on private nonfarm payrolls by industry sector, seasonally adjusted

Industry	Average hourly earnings				Average weekly earnings			
	Feb. 2022	Dec. 2022	Jan. 2023 ^p	Feb. 2023 ^p	Feb. 2022	Dec. 2022	Jan. 2023 ^p	Feb. 2023 ^p
Total private.....	\$31.63	\$32.92	\$33.01	\$33.09	\$1,097.56	\$1,132.45	\$1,142.15	\$1,141.61
Goods-producing.....	31.89	33.11	33.25	33.28	1,285.17	1,314.47	1,336.65	1,331.20
Mining and logging.....	35.55	36.64	36.76	36.87	1,613.97	1,667.12	1,698.31	1,684.96
Construction.....	33.97	35.60	35.67	35.76	1,338.42	1,374.16	1,398.26	1,394.64
Manufacturing.....	30.48	31.47	31.63	31.62	1,240.54	1,261.95	1,281.02	1,274.29
Durable goods.....	31.97	32.96	33.14	33.16	1,310.77	1,338.18	1,358.74	1,356.24
Nondurable goods.....	27.99	28.92	29.06	28.98	1,122.40	1,139.45	1,156.59	1,141.81
Private service-providing.....	31.57	32.88	32.96	33.04	1,060.75	1,094.90	1,107.46	1,103.54
Trade, transportation, and utilities.....	27.26	28.23	28.39	28.55	932.29	962.64	973.78	973.56
Wholesale trade.....	34.66	35.87	36.29	36.16	1,358.67	1,388.17	1,411.68	1,403.01
Retail trade.....	22.67	23.45	23.54	23.81	689.17	708.19	715.62	716.68
Transportation and warehousing.....	27.37	28.17	28.24	28.40	1,040.06	1,081.73	1,090.06	1,093.40
Utilities.....	46.25	48.44	48.74	48.84	1,951.75	2,024.79	2,042.21	2,056.16
Information.....	45.55	47.74	47.77	48.05	1,680.80	1,742.51	1,748.38	1,749.02
Financial activities.....	40.75	42.42	42.47	42.65	1,528.13	1,586.51	1,588.38	1,590.85
Professional and business services.....	37.95	39.53	39.70	39.76	1,396.56	1,438.89	1,453.02	1,455.22
Private education and health services.....	31.29	32.58	32.68	32.63	1,048.22	1,084.91	1,094.78	1,089.84
Leisure and hospitality.....	19.49	20.78	20.77	20.83	504.79	525.73	535.87	531.17
Other services.....	28.34	29.37	29.50	29.51	912.55	948.65	952.85	953.17

p Preliminary

NOTE: Data have been revised to reflect March 2022 benchmark levels and updated seasonal adjustment factors.

ESTABLISHMENT DATA

Table B-4. Indexes of aggregate weekly hours and payrolls for all employees on private nonfarm payrolls by industry sector, seasonally adjusted
[2007=100]

Industry	Index of aggregate weekly hours ¹					Index of aggregate weekly payrolls ²				
	Feb. 2022	Dec. 2022	Jan. 2023 ^p	Feb. 2023 ^p	Percent change from: Jan. 2023 - Feb. 2023 ^p	Feb. 2022	Dec. 2022	Jan. 2023 ^p	Feb. 2023 ^p	Percent change from: Jan. 2023 - Feb. 2023 ^p
Total private.....	112.3	114.2	115.2	115.1	-0.1	169.8	179.7	181.8	182.0	0.1
Goods-producing.....	96.0	97.1	98.5	98.1	-0.4	138.4	145.3	148.1	147.6	-0.3
Mining and logging.....	83.2	89.8	91.6	90.6	-1.1	118.7	132.1	135.2	134.1	-0.8
Construction.....	104.2	104.6	106.7	106.4	-0.3	153.7	161.8	165.3	165.4	0.1
Manufacturing.....	92.7	93.6	94.6	94.1	-0.5	131.3	137.0	139.2	138.4	-0.6
Durable goods.....	90.7	92.5	93.4	93.2	-0.2	128.8	135.5	137.5	137.3	-0.1
Nondurable goods.....	96.0	95.9	97.2	96.1	-1.1	136.3	140.8	143.3	141.4	-1.3
Private service-providing.....	116.8	118.7	120.2	119.7	-0.4	179.3	189.7	192.5	192.2	-0.2
Trade, transportation, and utilities.....	106.7	107.2	108.0	107.5	-0.5	156.9	163.2	165.4	165.6	0.1
Wholesale trade.....	101.7	102.9	103.6	103.5	-0.1	147.5	154.4	157.3	156.6	-0.4
Retail trade.....	96.3	95.1	96.0	95.3	-0.7	144.4	147.5	149.4	150.1	0.5
Transportation and warehousing.....	143.3	147.9	149.1	148.2	-0.6	199.5	212.0	214.2	214.1	0.0
Utilities.....	100.6	100.4	100.3	100.6	0.3	153.8	160.7	161.5	162.3	0.5
Information.....	100.9	104.0	103.6	102.2	-1.4	163.6	176.8	176.3	174.9	-0.8
Financial activities.....	110.3	111.5	111.6	111.3	-0.3	175.4	184.5	184.8	185.1	0.2
Professional and business services.....	128.4	129.9	130.9	131.2	0.2	197.4	208.0	210.6	211.3	0.3
Private education and health services.....	131.3	135.0	136.4	136.4	0.0	197.6	211.6	214.4	214.1	-0.1
Leisure and hospitality.....	114.8	117.8	120.9	120.3	-0.5	180.5	197.5	202.7	202.2	-0.2
Other services.....	104.9	108.0	108.3	108.5	0.2	162.9	173.8	175.2	175.5	0.2

¹ The indexes of aggregate weekly hours are calculated by dividing the current month's estimates of aggregate hours by the corresponding 2007 annual average aggregate hours. Aggregate hours estimates are the product of estimates of average weekly hours and employment.

² The indexes of aggregate weekly payrolls are calculated by dividing the current month's estimates of aggregate weekly payrolls by the corresponding 2007 annual average aggregate weekly payrolls. Aggregate payroll estimates are the product of estimates of average hourly earnings, average weekly hours, and employment.

^p Preliminary

NOTE: Data have been revised to reflect March 2022 benchmark levels and updated seasonal adjustment factors.

ESTABLISHMENT DATA

Table B-5. Employment of women on nonfarm payrolls by industry sector, seasonally adjusted

Industry	Women employees (in thousands)				Percent of all employees			
	Feb. 2022	Dec. 2022	Jan. 2023 ^p	Feb. 2023 ^p	Feb. 2022	Dec. 2022	Jan. 2023 ^p	Feb. 2023 ^p
Total nonfarm.....	74,966	76,965	77,209	77,362	49.7	49.8	49.8	49.8
Total private.....	62,197	63,943	64,128	64,251	48.2	48.4	48.4	48.4
Goods-producing.....	4,783	4,965	4,970	4,980	22.9	23.1	23.1	23.1
Mining and logging.....	75	81	82	82	12.9	12.9	13.0	13.0
Construction.....	1,076	1,111	1,115	1,119	14.0	14.1	14.1	14.1
Manufacturing.....	3,632	3,773	3,773	3,779	28.7	29.1	29.1	29.1
Durable goods.....	1,920	2,018	2,017	2,020	24.4	24.9	24.9	25.0
Nondurable goods.....	1,712	1,755	1,756	1,759	35.7	36.0	35.9	36.0
Private service-providing.....	57,414	58,978	59,158	59,271	53.2	53.3	53.3	53.2
Trade, transportation, and utilities.....	11,236	11,327	11,346	11,373	39.3	39.4	39.4	39.4
Wholesale trade.....	1,784.3	1,845.6	1,849.5	1,858.5	30.3	30.6	30.6	30.7
Retail trade.....	7,548.8	7,514.4	7,521.0	7,530.7	48.5	48.5	48.5	48.4
Transportation and warehousing.....	1,765.1	1,823.3	1,830.5	1,838.8	26.9	27.2	27.2	27.4
Utilities.....	137.9	144.0	144.5	144.5	25.0	25.9	26.1	26.2
Information.....	1,174	1,265	1,262	1,251	39.2	40.5	40.7	40.7
Financial activities.....	5,012	5,071	5,075	5,064	55.8	55.7	55.7	55.6
Professional and business services.....	10,344	10,502	10,547	10,586	46.4	46.0	46.1	46.2
Private education and health services.....	18,424	19,106	19,157	19,195	76.8	77.0	76.8	76.8
Leisure and hospitality.....	8,200	8,599	8,651	8,677	52.8	52.7	52.7	52.5
Other services.....	3,024	3,108	3,120	3,125	53.5	53.6	53.6	53.6
Government.....	12,799	13,022	13,081	13,111	58.0	58.3	58.3	58.3

p Preliminary

NOTE: Data have been revised to reflect March 2022 benchmark levels and updated seasonal adjustment factors.

ESTABLISHMENT DATA

Table B-6. Employment of production and nonsupervisory employees on private nonfarm payrolls by industry sector, seasonally adjusted¹

(In thousands)

Industry	Feb. 2022	Dec. 2022	Jan. 2023 ^p	Feb. 2023 ^p
Total private.....	105,064	107,475	107,851	108,046
Goods-producing.....	14,939	15,393	15,437	15,440
Mining and logging.....	442	471	477	477
Construction.....	5,644	5,798	5,824	5,824
Manufacturing.....	8,853	9,124	9,136	9,139
Durable goods.....	5,426	5,624	5,627	5,634
Nondurable goods.....	3,427	3,500	3,509	3,505
Private service-providing.....	90,125	92,082	92,414	92,606
Trade, transportation, and utilities.....	24,169	24,212	24,279	24,358
Wholesale trade.....	4,687.5	4,793.8	4,798.6	4,811.7
Retail trade.....	13,258.1	13,148.2	13,189.1	13,243.4
Transportation and warehousing.....	5,784.7	5,828.6	5,850.5	5,864.0
Utilities.....	438.4	441.4	440.3	438.8
Information.....	2,376	2,484	2,465	2,449
Financial activities.....	6,766	6,845	6,858	6,864
Professional and business services.....	17,882	18,140	18,162	18,180
Private education and health services.....	20,903	21,594	21,708	21,776
Leisure and hospitality.....	13,447	14,088	14,210	14,239
Other services.....	4,582	4,719	4,732	4,740

¹ Data relate to production employees in mining and logging and manufacturing, construction employees in construction, and nonsupervisory employees in the service-providing industries. These groups account for approximately four-fifths of the total employment on private nonfarm payrolls.

^p Preliminary

NOTE: Data have been revised to reflect March 2022 benchmark levels and updated seasonal adjustment factors.

ESTABLISHMENT DATA

Table B-7. Average weekly hours and overtime of production and nonsupervisory employees on private nonfarm payrolls by industry sector, seasonally adjusted¹

Industry	Feb. 2022	Dec. 2022	Jan. 2023 ^p	Feb. 2023 ^p
AVERAGE WEEKLY HOURS				
Total private.....	34.2	33.8	34.1	33.9
Goods-producing.....	41.2	40.3	40.7	40.6
Mining and logging.....	47.0	46.7	47.6	46.8
Construction.....	40.2	39.3	39.9	39.9
Manufacturing.....	41.5	40.6	40.9	40.7
Durable goods.....	41.7	40.9	41.1	41.1
Nondurable goods.....	41.2	40.0	40.4	40.0
Private service-providing.....	33.0	32.8	33.0	32.8
Trade, transportation, and utilities.....	34.3	34.0	34.4	34.1
Wholesale trade.....	39.3	38.7	38.9	38.8
Retail trade.....	30.7	30.2	30.8	30.5
Transportation and warehousing.....	37.8	38.0	38.3	37.9
Utilities.....	42.0	42.7	42.7	43.0
Information.....	36.8	36.0	36.1	36.1
Financial activities.....	37.4	37.1	37.2	37.3
Professional and business services.....	36.4	36.3	36.4	36.3
Private education and health services.....	32.6	32.5	32.7	32.6
Leisure and hospitality.....	24.8	24.4	24.6	24.2
Other services.....	31.2	31.3	31.3	31.4
AVERAGE OVERTIME HOURS				
Manufacturing.....	4.5	3.6	3.8	3.7
Durable goods.....	4.6	3.7	3.8	3.8
Nondurable goods.....	4.3	3.4	3.7	3.5

¹ Data relate to production employees in mining and logging and manufacturing, construction employees in construction, and nonsupervisory employees in the service-providing industries. These groups account for approximately four-fifths of the total employment on private nonfarm payrolls.

^p Preliminary

NOTE: Data have been revised to reflect March 2022 benchmark levels and updated seasonal adjustment factors.

ESTABLISHMENT DATA

Table B-8. Average hourly and weekly earnings of production and nonsupervisory employees on private nonfarm payrolls by industry sector, seasonally adjusted¹

Industry	Average hourly earnings				Average weekly earnings			
	Feb. 2022	Dec. 2022	Jan. 2023 ^p	Feb. 2023 ^p	Feb. 2022	Dec. 2022	Jan. 2023 ^p	Feb. 2023 ^p
Total private.....	\$26.98	\$28.21	\$28.29	\$28.42	\$922.72	\$953.50	\$964.69	\$963.44
Goods-producing.....	27.42	28.72	28.91	28.95	1,129.70	1,157.42	1,176.64	1,175.37
Mining and logging.....	31.97	33.41	33.39	33.14	1,502.59	1,560.25	1,589.36	1,550.95
Construction.....	31.63	33.22	33.42	33.57	1,271.53	1,305.55	1,333.46	1,339.44
Manufacturing.....	24.56	25.67	25.83	25.80	1,019.24	1,042.20	1,056.45	1,050.06
Durable goods.....	25.64	26.85	26.95	26.98	1,069.19	1,098.17	1,107.65	1,108.88
Nondurable goods.....	22.83	23.73	23.99	23.86	940.60	949.20	969.20	954.40
Private service-providing.....	26.88	28.10	28.17	28.31	887.04	921.68	929.61	928.57
Trade, transportation, and utilities.....	23.49	24.53	24.64	24.79	805.71	834.02	847.62	845.34
Wholesale trade.....	28.70	29.93	30.00	30.03	1,127.91	1,158.29	1,167.00	1,165.16
Retail trade.....	19.40	20.09	20.23	20.34	595.58	606.72	623.08	620.37
Transportation and warehousing.....	25.25	26.38	26.60	26.87	954.45	1,002.44	1,018.78	1,018.37
Utilities.....	40.95	43.38	43.35	43.52	1,719.90	1,852.33	1,851.05	1,871.36
Information.....	37.27	38.81	38.94	39.17	1,371.54	1,397.16	1,405.73	1,414.04
Financial activities.....	31.35	32.91	32.93	33.28	1,172.49	1,220.96	1,225.00	1,241.34
Professional and business services.....	31.96	33.31	33.46	33.62	1,163.34	1,209.15	1,217.94	1,220.41
Private education and health services.....	28.40	29.65	29.76	29.76	925.84	963.63	973.15	970.18
Leisure and hospitality.....	17.23	18.39	18.32	18.42	427.30	448.72	450.67	445.76
Other services.....	24.48	25.30	25.35	25.40	763.78	791.89	793.46	797.56

¹ Data relate to production employees in mining and logging and manufacturing, construction employees in construction, and nonsupervisory employees in the service-providing industries. These groups account for approximately four-fifths of the total employment on private nonfarm payrolls.

^p Preliminary

NOTE: Data have been revised to reflect March 2022 benchmark levels and updated seasonal adjustment factors.

ESTABLISHMENT DATA

Table B-9. Indexes of aggregate weekly hours and payrolls for production and nonsupervisory employees on private nonfarm payrolls by industry sector, seasonally adjusted¹
 [2002=100]

Industry	Index of aggregate weekly hours ²					Index of aggregate weekly payrolls ³				
	Feb. 2022	Dec. 2022	Jan. 2023 ^p	Feb. 2023 ^p	Percent change from: Jan. 2023 - Feb. 2023 ^p	Feb. 2022	Dec. 2022	Jan. 2023 ^p	Feb. 2023 ^p	Percent change from: Jan. 2023 - Feb. 2023 ^p
Total private.....	119.7	121.1	122.6	122.1	-0.4	215.9	228.2	231.7	231.8	0.0
Goods-producing.....	94.1	94.8	96.0	95.8	-0.2	157.9	168.7	170.0	169.8	-0.1
Mining and logging.....	110.4	116.9	120.7	118.6	-1.7	205.3	227.1	234.3	228.6	-2.4
Construction.....	113.6	114.1	116.4	116.4	0.0	194.0	204.7	210.0	210.9	0.4
Manufacturing.....	84.3	85.0	85.8	85.4	-0.5	135.5	142.8	144.9	144.1	-0.6
Durable goods.....	85.0	86.4	86.9	87.0	0.1	136.1	144.8	146.2	146.5	0.2
Nondurable goods.....	83.2	82.5	83.5	82.6	-1.1	134.2	138.3	141.6	139.3	-1.6
Private service-providing.....	126.7	128.7	129.9	129.4	-0.4	233.6	248.0	251.1	251.3	0.1
Trade, transportation, and utilities.....	116.0	115.2	116.9	116.3	-0.5	194.8	202.0	205.9	206.0	0.0
Wholesale trade.....	109.3	110.1	110.8	110.8	0.0	185.2	194.5	196.2	196.4	0.1
Retail trade.....	103.2	100.7	103.0	102.4	-0.6	171.7	173.4	178.7	178.6	-0.1
Transportation and warehousing.....	165.5	167.6	169.6	168.2	-0.8	266.0	281.5	287.1	287.7	0.2
Utilities.....	94.2	96.4	96.1	96.5	0.4	161.0	174.5	174.0	175.3	0.7
Information.....	99.8	102.1	101.6	100.9	-0.7	184.1	196.1	195.8	195.7	-0.1
Financial activities.....	119.1	119.5	120.1	120.5	0.3	229.7	242.0	243.3	246.7	1.4
Professional and business services.....	145.3	147.0	147.6	147.3	-0.2	276.2	291.2	293.7	294.6	0.3
Private education and health services..	145.3	149.6	151.3	151.4	0.1	272.3	292.8	297.3	297.3	0.0
Leisure and hospitality.....	122.2	125.9	128.0	126.2	-1.4	239.0	263.0	266.4	264.0	-0.9
Other services.....	100.3	103.6	103.9	104.4	0.5	178.8	191.0	191.9	193.2	0.7

¹ Data relate to production employees in mining and logging and manufacturing, construction employees in construction, and nonsupervisory employees in the service-providing industries. These groups account for approximately four-fifths of the total employment on private nonfarm payrolls.

² The indexes of aggregate weekly hours are calculated by dividing the current month's estimates of aggregate hours by the corresponding 2002 annual average aggregate hours. Aggregate hours estimates are the product of estimates of average weekly hours and employment.

³ The indexes of aggregate weekly payrolls are calculated by dividing the current month's estimates of aggregate weekly payrolls by the corresponding 2002 annual average aggregate weekly payrolls. Aggregate payroll estimates are the product of estimates of average hourly earnings, average weekly hours, and employment.

^p Preliminary

NOTE: Data have been revised to reflect March 2022 benchmark levels and updated seasonal adjustment factors.



Final Rule:
Revised Definition of “Waters of the United States”
Fact Sheet for the Agricultural Community
 December 2022



Overview

On Dec. 30, 2022, the U.S. Environmental Protection Agency (EPA) and Department of the Army (the agencies) announced a final rule founded upon the pre-2015 definition of “waters of the United States,” updated to reflect consideration of Supreme Court decisions, the science, and the agencies’ technical expertise.

The agencies chose the familiar, pre-2015 definition as a foundation because it has supported decades of clean water progress and has been implemented by every administration in the last 45 years. This action establishes a durable and reasonable definition of “waters of the United States.”

The approach provides clear rules of the road to advance agricultural activities, infrastructure projects, and economic investments while protecting water quality. EPA and Army are prioritizing practical, on the ground implementation by providing tools and resources to support timely and consistent jurisdictional determinations under this definition of “waters of the United States.”

Exemptions in the Clean Water Act

The agencies’ definition of “waters of the United States” does not affect the longstanding activity-based permitting exemptions provided to the agricultural community by the Clean Water Act.

Agricultural activities that are exempt from section 404 permitting include:

- Normal farming, silviculture, and ranching activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;
- Maintenance of dikes, levees, groins, riprap, and transportation structures;
- Construction of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches, and
- Construction or maintenance of farm roads, in accordance with best management practices.

Exclusions in the Final Rule

The final rule codifies exclusions from the definition of “waters of the United States” in regulatory text—delivering clarity to the agricultural community. The final rule includes two longstanding exclusions from the definition of “waters of the United States.”

- **Prior converted cropland.** The final rule defines prior converted cropland consistent with the U.S. Department of Agriculture’s (USDA) definition. Prior converted cropland remains excluded from the definition of “waters of the United States” as long as it is available for agricultural commodity production. The agencies interpret availability for agricultural commodity production to include uses such as crop production, haying, grazing, agroforestry, or idling land for conservation uses.
- **Waste treatment systems.** Features excluded under this category include treatment ponds or lagoons that are designed to meet the requirements of the Clean Water Act.

The final rule includes six additional exclusions from the definition of “waters of the United States” to further increase regulatory certainty.

- **Ditches** (including roadside ditches) excavated wholly in and draining only dry land, and that do not carry a relatively permanent flow of water.
- **Artificially irrigated areas** that would revert to dry land if the irrigation ceased.
- **Artificial lakes or ponds** created by excavating or diking dry land that are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
- **Artificial reflecting pools or swimming pools** and other small ornamental bodies of water created by excavating or diking dry land.
- **Waterfilled depressions** created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction operation is abandoned and the resulting body of water meets the definition of “waters of the United States.”
- **Swailes and erosional features** (e.g., gullies, small washes) that are characterized by low volume, infrequent, or short duration flow.

Jurisdictional Waters in the Final Rule

The agencies’ definition of “waters of the United States” provides jurisdiction over waterbodies that Congress clearly intended to protect under the Clean Water Act, such as traditional navigable waters (e.g., certain large rivers and lakes), territorial seas, and interstate waters. For upstream waters that may significantly affect the integrity of the downstream waters that Congress clearly intended to protect, the rule provides a reasonable approach that recognizes geographic differences in waters. The rule accounts for regional differences in waters because regionally tailored implementation tools as well as local and regional conditions help determine whether waters are covered under this rule.

The final rule includes the longstanding categories for: (1) traditional navigable waters, the territorial seas, and interstate waters; (2) jurisdictional impoundments of “waters of the United States”; (3) jurisdictional tributaries; (4) jurisdictional adjacent wetlands; and (5) intrastate lakes and ponds,

streams, or wetlands not identified in categories (1) through (4) that meet the rule's jurisdictional criteria.

Outreach on the Final Rule

The final rule is based on extensive outreach and engagement that began before the rule was proposed and continued through the public comment period of the proposed rule. The agencies received input from farmers and ranchers through pre-proposal public meetings, pre-proposal written recommendations, public hearings, public comments, and meetings specifically for small entities.

For More Information

Additional information, along with copies of the final rule and supporting analyses, are available on EPA's website at <https://www.epa.gov/wotus>.

Senator CARPER. I would note, for the last 6, 7 months, each month, you may have noticed the rate of inflation is going down, down, down. If the Federal Reserve continues to do their job, and we do our job, maybe it will just keep coming down. I hope so.

Senator WICKER. With respect, I haven't noticed it going down, down, down. There have been upticks in certain sectors and down in others. Inflation is a serious problem. I just wondered if those documents reflected that.

Senator CARPER. Senator Cardin.

Senator MULLIN. Sir, hold on, I would like to just object. If you are putting your labor statistics into the record, I want to object to it, too. Because I am reading the labor statistics from the Bureau of Labor Statistics, and it said actually the unemployment rate edged up to 3.6 percent from February 2022, not the lowest that we have seen in record history. In fact, if you start looking at it, people that left the work force is 5.1 million in the last 4 weeks, which is what almost doubled the unemployment rate.

So your statistics aren't accurate to what you are saying for your unemployment. So your staff either, one, didn't brief you right on that, or they didn't read the same Department of Labor statistics which I am reading.

Senator CARPER. So you are saying the unemployment rate has gone up from 3.5 percent to 3.6 percent. I am not going to get into——

[Simultaneous conversations.]

Senator MULLIN. It is not accurate when you say that it has actually dropped.

Senator CARPER. Regular order. Thank you.

All right, who will be next?

Senator CARDIN. I am.

Senator CARPER. Senator Cardin.

Senator CARDIN. Thank you.

I appreciate your visits to Maryland. We know it is easy on your travel budget when you visit our State, so we always welcome you to the State of Maryland.

I also want to thank you for your help in regard to our priorities for the Chesapeake Bay and the Chesapeake Bay region. The budget provides \$47.6 million in fiscal year 2024 from the Bipartisan Infrastructure Bill, Bipartisan Infrastructure Bill that provided \$238 million to the Chesapeake Bay over a 5 year period. So we appreciate those funds being made available. We also appreciate your budget that increases the Bay Program directly by \$100,000.

I really want to acknowledge and urge you to continue to work with the surrounding States in the Chesapeake Bay watershed as well as other agencies, including the Army Corps, as we develop strategies to move forward with the Chesapeake Bay.

A second issue, I want to just acknowledge the challenges you have in regard to the work that you are doing for the Phase 3 Greenhouse Gas Emissions for Heavy Trucks. Maryland is home to Volvo Mack Truck, 1,500 jobs in Hagerstown. They are working on the electric vehicles, electric trains, I should say the electric drive trains for new clean trucks.

Our concern is, and we have mentioned this before to you, is that as you develop your rule, be mindful of this infrastructure or struc-

tures that are available to implement this in transition. We think the work being done in Hagerstown is important to that. We want to preserve that manufacturing here in the United States, to make sure we can comply within a reasonable period of time of any of the new requirements that are made.

Let me go to one of the public health challenges. You said you are prepared to meet these public health challenges. You have been to Back River Wastewater Treatment Plant in Baltimore. You know the challenges we have there.

Just recently, there was an explosion and fire. Fortunately, no one was hurt. But we do know that that plant discharges an excess amount of nutrients and bacteria. And Baltimore is not alone. This is a problem that we see in many of our older wastewater plants throughout this country.

My question is, it needs resources, but it also needs help in developing the proper management structure in order to meet the needs going forward. You indicated you are up to the task. So, tell me how you are going to be up to the task to help us in Baltimore and other places in this Nation that have real challenges in their wastewater treatment plans.

Mr. REGAN. Thank you, Senator Cardin, for that question. We are up for the challenge. Part of our strategy there is to leverage our strong regional leadership. We have 10 regions across the country that work in very close partnership with our State regulators.

So we are heavily engaged with the Department of Environment in Maryland and Baltimore City around how we look at this particular issue, the Back River issue. And we have our regional administrator, Adam Ortiz, who has got his finger on the pulse there.

Senator CARDIN. And he is doing a great job. I really want to acknowledge his incredible work in Region 3.

Mr. REGAN. Thank you. He is doing an incredible job. Part of that is ensuring that these States get the resources that they deserve.

So as part of the Bipartisan Infrastructure Law, when we look at the 50 billion or so dollars, there are significant, hundreds of millions of those dollars that we are providing directly to States for technical assistance.

Senator CARDIN. I think that technical assistance will be very important. We do have a resource problem, but we also have a management issue. So I hope the technical assistance will be sensitive to meet those needs.

Mr. REGAN. Absolutely. Absolutely.

Senator CARDIN. Let me raise one additional issue in the time I have remaining. That is on the lead abatement issues that you are dealing with. There are two grants that are going to be funded, I think to the tune of about \$219 million in the President's budget.

Tell me how you are going to target those funds, particularly to the underserved communities that have had the challenges in the past in dealing with lead poisoning in their homes and their schools. How do we target it to make sure it gets to the communities of greatest need?

Mr. REGAN. That is one of the really important tasks, not only of the entire agency, but of our new Office of Environmental Justice and External Civil Rights. No. 1, we are grateful for the lan-

guage in the bill that basically stipulates a certain percentage of these resources must go to disadvantaged communities. We also know that many States already have a lead inventory, and those that don't are continuing to develop that.

So we do have a formula in place. And we do have a structure in place that ensures that those who need these resources the most will get them first. We are grateful for the \$15 billion in the bill that targets eradicating lead pipes. But we all know that there are more financial needs in this country than the \$15 billion. That is why this budget request is so important.

Senator CARDIN. Thank you.

Thank you, Mr. Chairman.

Senator CARPER. Thank you, Senator.

And Senator Capito has graciously yielded to Senator Lummis for the next round of questions.

Senator Lummis, you are on.

Senator LUMMIS. Thank you, Mr. Chairman, and thank you, Ranking Member. I appreciate it.

Administrator Regan, welcome. I would comment first before I ask a question about PFAS that it is simply impossible for EPA to absorb and responsibly spend the amount of money that is being requested. I look forward to visiting with you about, if this amount of money is thrown at EPA, how you think you could possibly spend it responsibly. At any rate, that is just an editorial comment.

Administrator Regan, I have heard from public wastewater utilities concerned that a CERCLA listing for PFAS could leave them liable to bear the costs of contamination, putting the onus on local communities and households. Public water and wastewater utilities did not produce or benefit from PFAS, but since it flowed through their systems, they could be left bearing the costs associated with clean up, which will mean higher rates in people's water bills.

If the designation moves forward, does EPA plan to hold public wastewater utilities and local communities liable for PFAS contamination under CERCLA?

Mr. REGAN. Thank you for the question, Senator. Our goal is to use all of our enforcement authority to hold the companies responsible, accountable. That is goal No. 1.

No. 2, we do not want the burden and the onus to fall on our wastewater treatment facilities, especially those smaller ones in our rural communities.

That is why there is \$8 billion in the Bipartisan Infrastructure Law, thanks to many of you all, that got that in that law, that will provide some financial reassurance to these smaller communities as we begin to pursue this regulation.

Senator LUMMIS. Does EPA have authority to provide exemptions? Because exercising enforcement discretion doesn't seem sufficient.

Mr. REGAN. We do have enforcement discretion. I think that we have to look at the tools that we have within our tool box. Enforcement discretion is one, but it is a very powerful tool that we can use.

Senator LUMMIS. Do you have statutory authority to provide exemptions?

Mr. REGAN. We don't. We have the enforcement discretion tool.

Senator LUMMIS. Can EPA use its regulatory authority to strengthen existing Federal exclusions under CERCLA, including the federally permitted release and normal application of fertilizer, by clarifying that these apply to public wastewater utilities adhering to their Clean Water Act permits?

Mr. REGAN. I will have to take a look into that request.

Senator LUMMIS. Perfect. Thank you for that answer. And I am going to submit some other questions for you for the record.

But with my remaining time, I would like to switch to the Good Neighbor Rule and ozone transport. In your most recent Ozone Transport Rule, the EPA released updated modeling showing Wyoming's contribution to downwind States at .68, which is below the .7 parts per billion national standard for ozone threshold. The EPA should have approved Wyoming's State implementation plan rather than deferring. Any other action is arbitrary and not in accordance with the law.

So, do you have a timeframe of when the agency is going to act on Wyoming's plan?

Mr. REGAN. I would like to say I have enjoyed my conversations with Governor Gordon. I think our teams are working extremely well together. I think it is because of that productive relationship that we deferred action on Wyoming.

I don't have a particular timeline with me now; we can follow up with that. But I think it is instructive that the conversation we had with Wyoming was one of the reasons that the Good Neighbor Rule was as targeted as it is, using the best available information, having these constructive conversations, not only with Governors, but with State regulators, I believe produced the best results for the country.

Senator LUMMIS. Thank you. I do believe that the EPA should have approved Wyoming's State implementation plan rather than deferring, because we fall below EPA's own updated modeling in a way that makes us compliant. So the fact that this hasn't been approved is a source of frustration.

I have some questions, Mr. Chairman, about small refinery exemptions, RFS and coal combustion residual, and some other things, that I will submit for the record, and look forward to continuing some of these conversations with you. Thanks so much, Administrator Regan. I yield back.

Mr. REGAN. Thank you.

Senator CARPER. Senator Lummis, thank you.

Senator Padilla, how old are you?

[Laughter.]

Senator CARPER. How old are you, really?

Senator PADILLA. Turning 50 today, sir.

Senator CARPER. Turning 50. So 50 years ago today, you made your first appearance. Is your mom still alive?

Senator PADILLA. We lost Mom a couple of years ago.

Senator CARPER. Well, we are grateful to her for bringing you into the world and sharing you with all of us. With that having been said—

Senator LUMMIS. Mr. Chairman, would you yield the floor for a second?

Senator CARPER. Sure.

Senator LUMMIS. Fifty is a good time for a mid-life crisis. I scheduled mine, because I wanted to have one. But I was too busy, so I scheduled it.

[Laughter.]

Senator LUMMIS. And I went to Surf Divas in your home State of California, which is an all women's surfing school for pencil pushing women. It was absolutely tremendous. So I recommend that you schedule your mid-life crisis. And I wish you a very happy birthday.

[Laughter.]

Senator CARPER. I don't know how to top that. You are recognized.

[Laughter.]

Senator PADILLA. Thank you, Senator Lummis. I would think about scheduling it, but I think it would conflict with another hearing of the Environment and Public Works Committee.

[Laughter.]

Senator PADILLA. I will choose to go to Committee instead of a crisis.

Thank you, Mr. Chair. I want to begin by also thanking Administrator Regan for your staff and their close collaboration with me and my office on so many pressing issues, not just for the country, but specifically for California in the areas of chemical clean up, clean water, and clean air challenges.

Earlier this month, if your scheduling process is anything like mine, it might not have gotten to your eyes yet, but you do have an invitation from me to come to California and visit the South Coast Air Basin to see again first hand how pressing air quality challenges are impacting the community, particularly as a result of the tremendous amount of goods movement that we see in southern California.

We are proud to play such an important role for not just our region, but our national economy. But it doesn't come without impact, as you can appreciate. So we do hope to see you in the Los Angeles area very soon.

As you know, and as you will see, air pollution from mobile sources like freight trucks, ships, and locomotives disproportionately impacts the health of lower income communities, communities of color, tribal communities, and other marginalized communities. And while California is certainly doing all it can, we have leaned in at the State level and at the local level to tackle sources of air pollution under State jurisdiction and local jurisdictions, these heavily polluting mobile sources that remain our biggest challenges are under Federal jurisdiction.

So we need to continue this collaboration, we need the EPA to expedite reductions in pollution from these mobile sources.

I also want to recognize, in all fairness to you, that years of underfunding during the Trump administration has made it particularly challenging for EPA to fulfill its obligation to these disproportionately impacted communities.

But thanks to your leadership these past 2 years, there has been this new life that has been taken into the agency. Your rules, like the EPA's recent rule strengthening emissions standards for heavy

duty vehicles, are establishing some of the most significant protection that we have seen in decades.

But EPA has a mission to also protect public health and advance environmental justice. But that work cannot be done without sufficient resources and staff. I know Chairman Carper asked generally about staffing needs. I want to ask you to specifically address how increased funding for EPA's Office of Air and Radiation can enable the agency to move forward on this work to cut pollution and to save lives.

Mr. REGAN. Thank you for that, Senator Padilla, and thank you for your partnership.

Absolutely, if you talk to my staff, they are very grateful for last year's budget. But we are still in need of significant resources. There are some that might suggest that we can't absorb these increases. That is a hard message to give to people who are already overworked and working 6 and 7 days a week.

So absolutely, when we look at the challenges facing our country, especially on the transportation side, the amount of skills and resources and bodies that we need to keep pace with a changing economy and technologies, we absolutely need these bodies that we are requesting.

We did publish a Heavy Duty Truck Rule in December 2022 focused on NO_x. But as you are noting, we have another obligation to do another trucks rule focused on greenhouse gas emissions. So we are continuing to move forward with these regulations that quite frankly are technology standards. They are really driving the markets of where technology is going, and we have to keep pace with that.

So in the Office of Air and Radiation, when we look at a Good Neighbor Rule, our transportation rules, our 111 focusing on the power sector, our Mercury and Air Toxics Rules, these are the same individuals focusing on significant regulations that have to capture the market, analyze technologies, and do all of these things in a way that we can remain globally competitive.

Senator PADILLA. Thank you very much.

Time is zipping by fast, so I will just raise another issue and submit it in the form of questions for the record after the hearing. That is acknowledging the vision and leadership that you are providing, as well as the significant amount of investments that Congress has approved in recent years through the Bipartisan Infrastructure Rule, through the Inflation Reduction Act, and how we advance this whole of government approach, bringing along other departments and agencies to advance this priority of again, not just environmental protection broadly, clean air specifically, and bringing all the other powers and resources of the Federal Government to bear.

So we will follow up with you and your team.

Thank you, Mr. Chairman.

Senator CARPER. Senator Padilla, thanks again for sharing part of your birthday with all of us. Happy birthday from all of us across the aisle and on the same side of the aisle. Happy you are with us.

Senator Capito is next. She has yielded graciously to Senator Mullin. Then whenever she wants to ask a question, she will be recognized.

Senator MULLIN. Fortunately, I haven't reached that 50 year mark, and I don't plan on getting there any time soon or any time faster than I have to. So I don't know about the mid-life crisis yet, but I will take your advice.

[Laughter.]

Senator MULLIN. For the record, Mr. Chairman, I sit on the committee that has jurisdiction over the Department of Labor, and that is why I wanted to correct the statistics to which you were quoting. And I will do so, if you say something that isn't actually correct statistically speaking, I will be happy to make sure we understand for the record.

Senator CARPER. Please do.

Senator MULLIN. So going to WOTUS for a little bit, and I want to talk about heavy trucks, a Federal court recently struck down or actually put a preliminary injunction stopping the implementation of WOTUS in two States, Texas and Idaho. I am sure you are familiar with that. Thankfully, the court didn't grant Chevron deference.

You consistently said that you want a "durable rule" at the end of the day, but at least 25 States, which is half the country, are suing to prevent the WOTUS Rule from going into effect. Are you familiar with that?

Mr. REGAN. Yes.

Senator MULLIN. Given that everything is happening in the courts, aren't you just gambling on this one, hoping that the courts will apply Chevron deference to the WOTUS?

Mr. REGAN. We didn't see it as that. We looked at this rule, and we have got 45 years of experience in terms of what has happened in the past.

Senator MULLIN. Right.

Mr. REGAN. We took a look at the fact that the Trump rule was vacated, there was no Obama rule. So this rule basically tries to take advantage of every experience——

Senator MULLIN. You have half the country, which means half of the local jurisdiction over their backyard, over their environment, is saying, whoa, we don't want this. EPA is overstepping here. Half the country.

You don't think that is something that you should take into consideration? I mean, Washington, DC, doesn't rule the rest of the world. Nor does it rule the rest of the country. I mean, there are States that have the right to oversee and regulate if they are able to do so. And we have 25 States that are saying, we don't want WOTUS.

Do you not take that into consideration at all? Are you just saying, hey, Washington knows best, forget you all, we are going to do what we want?

Mr. REGAN. I basically have to say that the Constitution and the statutory authorities and the request by Congress for us to execute on safe and clean drinking water laws is what guided my actions. I do understand——

Senator MULLIN. WOTUS, when you start looking at the Clean Water Act, if you want to get into that, it specifically talked about navigable bodies of water.

Mr. REGAN. Sure.

Senator MULLIN. Intermittent streams that eventually flow into navigable bodies of water is not what Congress covered. Congress is very specific underneath the Clean Water Act when it stated a navigable bodies of water is to which we would have jurisdiction over. So how are we overreaching in this? And that is where I get into this, is where something I think you need to take into consideration.

I respect the job you did in North Carolina, and we spoke about that. But I think we need to take into consideration the rest of the country.

Going to, what is your definition of environmental justice? You mentioned that in your statement, that is why I say that.

Mr. REGAN. I think the definition, not mine, but the definition is that everyone, despite your race, your community, your ZIP code, your income, everyone deserves equal protection under the law from environmental pollution.

Senator MULLIN. So the 25 States you just ignore, that is half the country.

Mr. REGAN. Twenty-five States—

Senator MULLIN. Twenty-five States are saying they don't want WOTUS, and you are talking about clean water, clean air, environmental justice. WOTUS does do with that, 25 States are saying they don't want it. And you are going around it.

Mr. REGAN. We will continue this conversation, but the intention is that you have what the Clean Water Act requires us to do. You have Justice Kennedy's opinion, you have Justice Scalia's opinion. And then you have where we are today. I think we did our best job to look at what Congress has requested, took a look at those two Justices, to look at what the Obama administration and the Trump administration failed to do, and to respond in terms of what we are required to do which is—

Senator MULLIN. Communities that live in this environment, communities that live right where they stay, like my family has been in Oklahoma, right where we are at, since the 1830s. I think we know our backyard better than the EPA.

And no one takes more pride in it than we do. No one plays in the creek and swims in the creek that my kids play in, nobody from the EPA that I know of, they never have.

I promise you no one has better interest in it than I do. And I would just like the EPA to take that in consideration.

Real quick, going to heavy trucks, I know we are talking about zero emissions. But has EPA taken into consideration the safety and health and the hazard that it would cause on the roads? Because when you take combustible out, and you put in electric vehicles, you are going to add a minimum of 5,000 pounds to it, plus you are going to add length to it.

So you are going to have a two to one option that you are going to add for every truck that is on the road, the congestion that has already taken place in California, which is causing a humongous backlog on our supply chain. And if you take and consider their

rule, they are going to have a de facto by saying that they go to zero emissions, isn't that going to affect interstate commerce, how we are going to get equipment to and from the rest of the United States, not to mention that we are going to add a tremendous amount of traffic on the road?

EPA needs to be considering this, because we don't have the infrastructure to add these additional trucks on the road. So before we just continue down this road, we need to once again, sir, take all this in consideration.

I am sorry I am out of time.

Sir, if you want to give him time to respond, you can. But I am out of time, so I will yield.

Senator CARPER. Very briefly.

Mr. REGAN. Yes, I would love to continue the conversation. The statements suggest that we have not taken those things into account. And when you see the proposed rule that is coming out in the weeks to come, I think you will see much of that taken into account. But we can have that conversation.

Senator CARPER. Before recognizing Senator Kelly, I ask unanimous consent to submit for the record several letters that are collectively co-signed by over 100 stakeholder groups, including some in my home State of Delaware. There are letters in support of the 2023 WOTUS rule, describing the negative impacts that a Congressional Review Act resolution to repeal the rule would have on water, wildlife, and human health.

These letters reflect that the stakeholders who support the 2023 WOTUS rule span both urban and rural areas, and include small business owners, as well as millions of Americans who rely on outdoor recreation for their livelihood.

[The referenced information follows:]

March 10, 2023

United States Senate
Washington, DC 20510

Re: Vote NO on H.J. Res. 27, the Congressional Review Act joint resolution of disapproval of the Revised Definition of the "Waters of the United States"

Dear Senator,

On behalf of our members and supporters, the undersigned organizations urge you to oppose H.J. Res. 27, the Congressional Review Act (CRA) joint resolution of disapproval targeting the Revised Definition of the "Waters of the United States" rule (Clean Water Restoration Rule). This dangerous legislation would invalidate the Biden administration's recently finalized regulation, which ensures protections for many of the waters that our families and communities value and depend on.

This Clean Water Restoration Rule ensures that critical waters- from small streams to rivers to wetlands- are protected from unregulated pollution and destruction when they have important downstream effects on water quality. The rule is a return to a familiar approach that the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (USACE) have used to identify waters that qualify as "waters of the United States" since President George W. Bush's administration. It also resoundingly rejects the Trump-era approach, which unlawfully and unscientifically rolled back the Clean Water Act's long standing protections, and reinstates basic safeguards to ensure big polluters can be stopped from recklessly and indiscriminately bulldozing our wetlands and dumping waste into our streams. The Clean Water Restoration Rule is grounded in science, which demonstrates that the condition of waters often depends on water bodies upstream, and those upstream waters must be protected to safeguard the health of downstream communities and the environment. The rule will more effectively fulfill the purpose of the Clean Water Act: "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters."

By using the Congressional Review Act to attack the Clean Water Restoration Rule, H.J. Res. 27 is employing an incredibly blunt tool in a dangerous attempt to undermine the Clean Water Act itself. When a rule is undone using the CRA process, future administrations are prevented from issuing rules that are "substantially the same," which could undermine future agency action to the benefit of polluters. Despite rhetoric that this bill is being promoted to provide certainty for businesses and other stakeholders, it would actually do the opposite. For instance, should H.J. Res. 27 become law, both protections and exemptions codified in the Clean Water Restoration Rule, including ones for the agriculture industry, could be called into question in future efforts designed to define "waters of the United States." The only stakeholders who benefit from this attack on our clean water protections are big polluters who dump waste into our waterways and burden our families and communities with the health and environmental costs.

Again, we ask you to OPPOSE H.J. Res. 27, the CRA joint resolution disapproving of the Biden-Harris administration's Revised Definition of the "Waters of the United States." This harmful bill is simply a polluter-driven effort to undermine the Clean Water Restoration Rule and the critical safeguards that it provides for our waters. Congress should be doing more, not less, to protect our waterways and to ensure that everyone, no matter their race, zip code, or income, has access to clean, safe water.

Sincerely,

350.org
A Community Voice
Alabama Rivers Alliance
Alaska Community Action on Toxics
Alliance for the Great Lakes

Alliance of Nurses for Healthy Environments
American Geophysical Union
American Public Health Association
American Rivers
American Sustainable Business Network

Amigos Bravos	Healthy Gulf
Anthropocene Alliance	Hispanic Federation
Appalachian Trail Conservancy	Idaho Rivers United
Asociación de Residentes de La Margaita, Inc	Illinois Council of Trout Unlimited
Atchafalaya Basinkeeper	Kentucky Waterways Alliance
Black Millennials 4 Flint	Izaak Walton League of America
Cahaba River Society	Lake Erie Waterkeeper
California Environmental Voters	Lake Pepin Legacy Alliance
Center for a Sustainable Coast	Lawyers for Good Government (L4GG)
Center for Biological Diversity	League of Conservation Voters
Center for Environmental Transformation	Lynn Canal Conservation
Chesapeake Bay Foundation	Maine Conservation Voters
Children's Environmental Health Network	Malach Consulting
Clean Water Action	Michigan League of Conservation Voters
Clean, Healthy, Educated, Safe & Sustainable Community, Inc.	Milton's Concerned Citizens
Coalition for Wetlands and Forests	Milwaukee Riverkeeper
Committee on the Middle Fork Vermilion River	Mississippi River Collaborative
Community In-Power and Development Association Inc. (CIDA Inc.)	Missouri Confluence Waterkeeper
Concerned Citizens for Nuclear Safety	Montana Conservation Voters
Concerned Citizens of Cook County (Georgia)	MS Communities United for Prosperity (MCUP)
Conservation Alabama	National Wildlife Federation
Earthjustice	Natural Heritage Institute
Endangered Habitats League	Natural Resources Defense Council
Environment America	NC Conservation Network
Environment Maine	NC League of Conservation Voters
Environment Michigan	New Mexico Climate Justice
Environment Minnesota	New Mexico Environmental Law Center
Environment Montana	New York League of Conservation Voters
Environment Nevada	Northeastern Minnesotans for Wilderness
Environment New Hampshire	Ohio Environmental Council
Environment New York	Ohio River Foundation
Environment Ohio	Our Children's Earth Foundation
Environment Rhode Island	Park Watershed
Environment Texas	Patagonia Area Resource Alliance
Environmental Law & Policy Center	PES
Environmental Working Group	Rapid Creek Watershed Action
Food & Water Watch	Renewal of Life Trust
For Love of Water (FLOW)	River Network
FreshWater Accountability Project	Save the Illinois River, Inc., STIR
Freshwater Future	Serene Wildlife Sanctuary LLC
Friends of Buckingham	Sierra Club
Friends of the Mississippi River	Southern Environmental Law Center
Gila Resources Information Project	Surfrider Foundation
Greater Edwards Aquifer Alliance	The Clinch Coalition
Greater Neighborhood Alliance of Jersey City, NJ	The Water Collaborative of Greater New Orleans
GreenLatinos	Tookany/Tacony-Frankford Watershed Partnership
Groundswell Charleston SC	Virginia League of Conservation Voters
Gullah/Geechee Sea Island Coalition	Washington Conservation Action
Harpeth Conservancy	Waterkeepers Chesapeake
	Weequahic Park Association
	Winyah Rivers Alliance

The Honorable Thomas R. Carper, Chairman
 Committee on Environment and Public Works
 456 Dirksen Senate Office Building
 Washington, D.C. 20510



Dear Chairman Carper:

The Choose Clean Water Coalition and our more than 280-member organizations are concerned about water quality in the 64,000 square mile Chesapeake Bay Watershed. These national, regional, statewide and local organizations represent all six Bay watershed states, and all 37 Congressional districts. The Choose Clean Water Coalition strongly urges you to oppose the Congressional Review Act legislation that would prevent clean water protections from being implemented. This would invalidate the recently finalized "Waters of the United States" rule, which restores longstanding protections for important wetlands and streams in our region and across the country.

This attempt to invalidate a science-based approach will have negative impacts to clean water, wildlife and human health in our region. Nearly two out of three of the region's 18 million residents get their drinking water directly from the rivers and streams flowing into Chesapeake Bay. Degrading the quality of water that 12 million of our region's people rely on is bad public policy. And further, the cumulative impacts of degraded water quality on Chesapeake Bay and its valuable commercial and recreational fisheries, as well as tourism and recreation, could cause hundreds of millions of dollars in economic losses over time. This legislation will bring a cost-benefit ratio that tilts severely to the cost side – for people, for fish and wildlife, and for the regional economy.

This is a short-sighted piece of legislation that will ultimately have much higher costs than benefits and we urge you oppose its passage. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Laura Bankey".

Laura Bankey, Co-Chair
 National Aquarium

A handwritten signature in cursive script that reads "Jennifer Mihills".

Jennifer Mihills, Co-Chair
 National Wildlife Federation

A handwritten signature in cursive script that reads "Ezra Thrush".

Ezra Thrush, Co-Chair
 PennFuture



The Honorable Thomas R. Carper, Chairman
Committee on Environment and Public Works
456 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Carper,

As the Delaware leader for the Coalition for the Delaware River Watershed and the Choose Clean Water Coalition of the Chesapeake Bay, Delaware Nature Society joins more than 450 members in working to improve the water quality and overall environmental health across 76,500 square miles in seven states. DelNature is most concerned about the nearly 2,500 square miles of home, including its severely degraded waterways and the watershed of our beautiful Inland Bays.

We urge you to oppose the Congressional Review Act legislation, which would prevent important clean water protections from being implemented. This legislation would invalidate the recently finalized "Waters of the United States" rule, which restores longstanding protections for important wetlands and streams in our region and across the country.

This attempt to invalidate a science-based approach will have negative impacts on clean water, wildlife, and human health in our region. In the Chesapeake Bay Watershed, which covers a third of western Delaware, nearly two out of three of the region's 18 million residents get their drinking water directly from rivers and streams that flow into the bay. More than 13.3 million people get water from the Delaware River Watershed.

Degrading the quality of water for 25 million of our region's citizens is bad public policy. The cumulative impacts of degraded water quality on in our watersheds and its valuable commercial and recreational fisheries, as well as tourism and recreation, could also cause hundreds of millions of dollars in economic losses over time.

Congressional Review Act legislation places the people, fish and wildlife, and regional economy at risk. Please support the current definition of Waters of the United States. Thank you.

Sincerely,

Mark Nardone
Director of Advocacy
Delaware Nature Society



March 14, 2023

The Honorable Thomas R. Carper, Chairman
Committee on Environment and Public Works
456 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Carper:

On behalf of 180 non-profit organizations that comprise the Coalition for the Delaware River Watershed, we strongly urge you to oppose the Congressional Review Act legislation that would prevent clean water protections from being implemented. This is a short-sighted piece of legislation will have negative impacts to clean water, wildlife, and human health in our region, which provides 13.3 million people with their drinking water — more than 4% of the total U.S. population.

Degrading the quality of water that provides \$25 billion in annual economic activity and an estimated \$21 billion in ecosystem services is bad public policy. Weakening protections under the Clean Water Act by revising the Waters of the US definition could cause hundreds of millions of dollars in economic losses over time. The Clean Water Restoration Rule should not be overturned and is essential to protecting and restoring the 13,539 square miles of the Delaware River watershed.

Our nation's leaders must do more to strengthen the protection of our waterways rather than threaten to roll them back. The Biden Administration's rulemaking serves as a significant course correction by reinstating longstanding protections for clean water regulations moving forward. This new rule is grounded in science, which underscores that many waters are connected, and thus must be protected to safeguard downstream communities and the environment.

Again, we urge you to oppose the Congressional Review Act's passage and vote "no" on overturning the Clean Water Restoration Rule.

Sincerely,

A handwritten signature in black ink that reads "Kelly Knutson". The signature is written in a cursive, flowing style.

Kelly Knutson
Director
Coalition for the Delaware River Watershed

Senator CARPER. Senator Kelly.

Senator KELLY. Thank you, Mr. Chairman.

Administrator Regan, good to see you again. Almost 3 years ago, the EPA announced the creation of the Office of Mountains, Deserts, and Plains, which is a new regional office focused on effectively cleaning up abandoned mines and mine lands across the West, and accelerating the clean up of Superfund sites on western lands.

The EPA needs to do more to clean up the hundreds of abandoned uranium mines on the Navajo Nation. There are more than 500 of them. And tribal leaders, just like tribal leaders, I am concerned that these sites fail to compete well for annual Superfund appropriations funding. I believe that a properly funded and authorized Office of Mountains, Deserts, and Plains can make meaningful progress on these projects.

But Administrator Regan, I noticed that the fiscal year 2024 EPA budget does not include funding for the Office of Mountains, Deserts, and Plains. Can you explain why that is?

Mr. REGAN. Yes, and I will echo your sentiments. We absolutely understand the importance of this particular office.

This particular office receives its funding through the Superfund Emergency Response and Removal and Superfund Remedial program, which in this budget, the fiscal year 2024 budget, the President is proposing to transition to Superfund Tax Receipts. So it is definitely built in, it is just built in under the Superfund program.

Senator KELLY. So you say the EPA budget does include, my question was, my understanding was it doesn't include funding. But you are saying it does include funding, but it is coming from another source?

Mr. REGAN. Yes, it is coming from the Superfund program, primarily from the Superfund Tax Receipts program.

Senator KELLY. And do you have an amount of funding?

Mr. REGAN. Our chief financial officer indicated that we are anticipating collecting over \$2 billion this year to be used for the subsequent year.

Senator KELLY. So you say the Office of Mountains, Deserts, and Plains will be funded at that level?

Mr. REGAN. It will get a percentage, it will get some of those resources coming out of those \$2 billion.

Senator KELLY. All right. Could you get back to me on what that number is?

Mr. REGAN. We can.

Senator KELLY. OK.

I have introduced legislation with Senator Lummis to authorize the Office of Mountains, Deserts, and Plains. Did you support this legislation?

Mr. REGAN. We have absolutely provided technical assistance to previous legislation. So we have weighed in there. Any additional or new legislation, we would be happy to continue to provide that technical assistance, to be sure that we are accomplishing the shared goal.

Senator KELLY. And can you share with us any ways that you think that Congress, what can we do to ensure that the office has

the authorities it needs to support Superfund clean ups in the western United States?

Mr. REGAN. We feel pretty confident right now that we have the authorities. I would love to continue this conversation, if there is some perceived indications that we don't. But we believe right now we have those authorities.

Senator KELLY. Great.

In the remaining time, I want to talk about PFAS for a second. So I am going to shift gears here. It is important to Arizona, cleaning up PFAS. Groundwater is our backup source of drinking water for both Phoenix and Tucson. And it is going to become more critical if this extended drought gets worse in Arizona.

Our groundwater aquifers in both Phoenix and Tucson, they have growing PFAS plumes. I understand the EPA has just finalized a drinking water standard for PFAS just last week, and more regulations may be finalized soon. So taken in combination with funding from the Infrastructure Law, I am hopeful that these actions can help make a difference for Arizona communities.

Administrator, will the new proposed drinking water standards, will that speed up any of the EPA's timelines on releasing the Bipartisan Infrastructure Law funds for treating contaminants like PFAS?

Mr. REGAN. It absolutely will. We will have them timed to coincide with this regulation and the needs that these communities have. Over \$10 billion in BIL are focused on PFAS and emerging contaminants; \$5 billion of that specifically focused on PFAS.

So yes, all of these things, our regulations and that law, are working in concert.

Senator KELLY. Thank you.

Mr. REGAN. Thank you.

Senator CARPER. Senator Kelly, thanks for joining us today.

Now, Senator Capito is recognized.

Senator Capito, please.

Senator CAPITO. Thank you, Mr. Chairman, and thank you again, Mr. Administrator.

These should be pretty easy questions. How many people are full time equivalents at EPA right now today?

Mr. REGAN. Right now, we have 14,900 employees.

Senator CAPITO. Fourteen thousand nine hundred, and what is the max, 15?

Mr. REGAN. Fifteen thousand, yes.

Senator CAPITO. And this budget is asking for an additional 2,000. Of the 14,900, how many are in the office 5 days a week?

Mr. REGAN. Most of our employees are working on a hybrid schedule, just like the rest of the Federal Government and corporate America. But I would like to say that we are definitely meeting all of our performance targets. So our staff is fully engaged—

Senator CAPITO. So you don't have a percentage of how many people actually come in every day?

Mr. REGAN. We can get you that percentage.

Senator CAPITO. Yes, I would like to see that. Because in your budget, you talk about hoteling, which means you are going to share space. You have a vision of some sort of shared space ar-

rangement, where somebody would use an office and then the next person who comes in uses the same office. Is that correct?

Mr. REGAN. What we are trying to do is do what everyone else is doing, which is think about, how do we have a responsible policy in place that leverages our work force. Whether you are in corporate America, State government, or the Federal Government, people have hybrid working conditions. And we are trying to make sure we are accommodating that schedule while meeting our mission.

Senator CAPITO. Yes. I would also like to see when you give me the statistics of how many people are in the office 3 days every 2 weeks. This is the same statistic we have from the NRC.

You and I have talked about this a little bit, something that I am deeply concerned about, what kind of culture we are creating here if nobody is seeing anybody, and nobody is in the same workplace. This is reflected not just in government, but also in the private sector. We can get those statistics from you.

I am going to put two charts up here that were generated by, I used them with Mr. Goffman last week. Basically I just want a quick answer from you. These were generated by your EPA. They basically are showing that in coal capacity and natural gas generation, that because of the IRA, coal capacity will be significantly lower than it would be had we not had the IRA. And the same with natural gas generation. These are models that he stands by.

I would like confirmation that this is EPA's firm projection of where the IRA is driving our energy production.

Mr. REGAN. Yes, those models look consistent.

Senator CAPITO. So the IRA will directly cause closures of natural gas and coal powered plants in all certainty.

Let me ask you about, because I talked about this in my opening statement, I want to give you a chance to respond, the \$3 billion Climate Environmental Justice Block Grant program. I was shocked to see that EPA gets 7 percent administrative expenses, \$210 million, to basically give money to subgrantees, and that they get another 20 percent for administrative.

Is that an efficient way to use Government money? What kind of oversight, and who are these people?

Mr. REGAN. We definitely have very good oversight over our grant program.

Senator CAPITO. Well, you might, but do we? We are the ones who are providing the dollars. Is that something that you are going to be fully transparent on, so we can see where these dollars are going?

Mr. REGAN. Absolutely. We will have the same transparency for all of the resources that Congress affords to EPA. This won't be treated any differently.

Senator CAPITO. Who are these groups? Who are the groups that are going to get the bulk of the \$3 billion Climate and Environmental Justice? Do you have a list?

Mr. REGAN. Some of the groups I am sure we do have a list, and maybe some we don't have a full list.

Senator CAPITO. I need to see the list.

Mr. REGAN. Sure. These grantees will meet all requirements and oversight principles that all of our grantees do. We are not treating anyone any differently, they are treated in a responsible way.

Senator CAPITO. Doesn't it seem like 27 percent of the dollars that the IRA, which none of us voted for, which is billions of dollars, is going to go to administrative costs, is that really providing environmental justice? Twenty-seven percent of that is already out the door.

Mr. REGAN. These are similar percentages to all of our administrative oversight and cost dollars for pass throughs and grant programs. This may be an issue that we have with the Government's grant programs. But this program is not being treated any differently than any other grant program that EPA administers.

Senator CAPITO. Well, I think one of the issues here is the enormity of the dollars. EPA received \$41 billion, and yet the President wants another 19 percent increase, 2,000 more people, when with the \$41 billion you are allowed to hire people to move forward with these programs. To me it is just mind boggling in this time of fiscal restraint where people are really watching their dollars, this kind of overreach and overspending. It just seems so exorbitant to me.

Mr. REGAN. We are not solely an energy agency. We focus on environmental protection. So IRA and BIL don't afford dollars to very critical programs that oversee TSCA, pesticides, herbicides. But we have a lot of programs that are in need of resources that don't fit neatly under the umbrella of IRA and BIL.

So I would say that while the percentage seems high, the dollar amount that EPA is asking for of an agency this size and the scope and magnitude of our responsibility is a catch up game. We have been in decline for decades, not just one or two Administrations, for decades.

So we are trying to develop a work force that can keep pace with a very challenging and growing economy.

Senator CAPITO. What increase did you get last year from your previous budget, percentage-wise?

Mr. REGAN. I think we are estimating a 5 percent increase, but we will get you that.

Senator CAPITO. All right, thank you.

Senator CARPER. Thanks, Senator Capito. Thanks for yielding all your time and being so patient.

Next, Senator Ricketts.

Good to see you. Welcome, thanks for coming.

Senator RICKETTS. Thank you, Mr. Chairman, and thank you, Mr. Regan, for being here today. I appreciate it.

So I am going to go back to the Waters of the U.S. You said in your opening remarks that you want a durable and certain rule, and that is going to be, I think we have agreed, it is best for everybody, correct?

Mr. REGAN. I am sorry?

Senator RICKETTS. You want to have a durable rule, correct?

Mr. REGAN. Yes.

Senator RICKETTS. And that would be best for everybody, people would have certainty, whether it is farmers or ranchers or small businesspeople, correct?

Mr. REGAN. That is correct.

Senator RICKETTS. And you are familiar with the 1972 Clean Water Act, correct?

Mr. REGAN. Yes.

Senator RICKETTS. And do you know how many times in that Act the word navigable water appears?

Mr. REGAN. No, I haven't counted that.

Senator RICKETTS. It is 50 times, 50 times in that Act it says navigable waters. And I am going to pull up the Merriam-Webster Dictionary here of the definition of navigable. And it says, navigable, 1(a), deep enough and wide enough to afford passage to ships. Navigable waterway. That is 1(a).

Then it goes on to 1(b), capable of being navigated, like navigable terrain, and 2 is capable of being steered. But the definition is pretty clear.

Now, I am from a landlocked State. We don't have lots of oceans around Nebraska. But to me navigable means you can put a boat on it and go someplace. And you cannot do that from a pond on a farm, you can't do it from a roadside ditch that is temporary, and you can't do it from a puddle on a construction site.

And yet it seems that is what you are trying to do with this rule, is extend that very clear definition of navigable to waterways that are clearly not navigable.

And you talked about exemptions, but you don't need exemptions when you are very clear, when it is very clear what Congress' intent was. Congress' intent could not have been more clear. Navigable waters, where you can put a boat and take a ship and go someplace. And that does not account for the things that you are trying to extend it to.

This to me seems to be an expansion of executive power. By the way, don't take it personally, Mr. Regan, because you are not the first Administration to try and expand executive power. But you are trying to expand the definition beyond what is here.

My question then goes to, with the Sackett case coming out, won't the Sackett case, is it your opinion the Sackett case is not actually going to clarify what navigable is with regard to these definitions?

Mr. REGAN. I really wish it was as simple as you laid out. But to your point, multiple Administrations haven't gotten it right since 2015. The Supreme Court has weighed in multiple times. So it is not quite as clear as that picture you painted.

I do agree that the Sackett case will have some impact on the rule. Part of our calculation is this rule is designed to absorb whatever ruling the Sackett case renders, so that so that we can move forward with that latest version of the law. The reason we did not wait is because we have a rule in place that will be impacted, we don't know how much potentially, by Sackett. And we will adjust that rule and move forward.

If we had waited until this ruling in June, we would have had to start a 2 year process, if not more. And that would have left a lot more uncertainty because of the vacatur of the Trump rule and because the Obama rule was not in place.

Senator RICKETTS. So if the Sackett rule, the Supreme Court comes back and says, no, navigable actually means navigable as defined by Merriam-Webster and what Congress' intent was in 1972,

aren't you going to have to go through that 2 year waiting period all over again?

Mr. REGAN. No. We believe there are other aspects of WOTUS that we have already taken care of. Then we will adjust to that new definition. WOTUS is a little bit more expansive and impactful than just navigable waters. So we have taken care of all those other externalities. We would adjust whatever decision we get from Sackett, and then we would be moving forward on what we predict to be a much shorter timeframe.

Senator RICKETTS. OK. I also note, and this is just a yes or no question, you mentioned the regional listening sessions. Did your staff clarify that those listening sessions are not, don't count as official comments for the rule? Is that accurate?

Mr. REGAN. One of the reasons to do that, No. 1, is it never hurts to listen. No. 2, we developed a very strong partnership—

Senator RICKETTS. It is a yes or no question, Mr. Regan. Did your staff clarify those don't count as official comments for the rule?

Mr. REGAN. But it helps with the implementation.

Senator RICKETTS. But it doesn't count for official, is that right? Yes or no?

Mr. REGAN. In terms of?

Senator RICKETTS. I think your staff clarified those comments don't count for the official comments on the ruling.

Mr. REGAN. But they count toward how the rule is implemented and how we partner with the USDA and the resources that USDA can bring to bear to help with the implementation of the rule. So those listening sessions were extremely valuable for both EPA and USDA.

Senator RICKETTS. So I want to switch gears on you real quick with the few seconds I have left. With the new RFS rule, the EPA put out biomass guidelines for 3 years that are all below what EPA says is the 3.1 billion gallon capacity that the industry already has. Why did you set the targets below what the industry was already creating?

And if you are going to do that, I would ask, do it for 1 year, don't make it something for 3 years when we know we are already at the capacity of 3.1 billion gallons and you have it below 3 billion gallons. Why did you set it below that?

Mr. REGAN. I think that when we look at the lack of progress that had been made in previous years, we had to go back and do the homework of a previous Administration and catch up for 2020, 2021 and 2022. So now we are looking at setting rules in the future. We are trying to set these volumes for multiple years so that we can create some certainty in this space for the industry, which is what the industry has requested that we do.

So I think the industry was pretty satisfied with where we landed on 2021. And now they are looking for that same trajectory and certainty in those out years.

Senator RICKETTS. Well, I am talking about 2023, though. You are setting the amount below 3.1 billion gallons, which is where the industry capacity is already at. Why did you set the biomass goal below what the capacities are at right now?

Mr. REGAN. I will take a look into how to answer that question accurately.

Senator RICKETTS. OK, thank you.

Senator CARPER. Thank you, Senator Ricketts.

We are joined by Senator Sullivan.

Before I yield to him, I am going to ask unanimous consent to enter into the record a letter submitted to the Senate leadership from sportsmen's organizations, such as the Theodore Roosevelt Conservation Partnership, the American Sports Fishing Association, the Back Country Hunters and Anglers.

The letter expresses support for President Biden's Waters of the U.S. Rule and emphasizes the impact of clean water on hunting and fishing opportunities, as well as the economic benefits of hunting and fishing, which is valued at some \$200 billion per rule.

Without objection.

[The referenced information follows:]

**American Fisheries Society * Arizona Wildlife Federation * Backcountry Hunters & Anglers
Fly Fishers International * Indiana Wildlife Federation * Izaak Walton League of America
National Wildlife Federation * Nevada Wildlife Federation * Ohio Conservation Federation
Theodore Roosevelt Conservation Partnership * Trout Unlimited**

The Honorable Charles E. Schumer
Majority Leader
United States Senate
S-221 Capitol Building
Washington, D.C. 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
317 Russell Senate Office Building
Washington, D.C. 20510

CC: United States Senate

March 14, 2023

Re: Oppose H.J. Res. 27/S.J. Res. 7 - Support a Strong Clean Water Act.

Dear Majority Leader Schumer and Minority Leader McConnell,

The below-signed members of the hunting, fishing, and scientific community urge you to **OPPOSE H.J. Res. 27/S.J. Res. 7, the Congressional Review Act joint resolution of disapproval of the Revised Definition of the "Waters of the United States" rule.**

H.J. Res. 27/S.J. Res. 7 would invalidate the Biden administration's recently finalized "waters of the United States" regulation, which restores long-standing protections for small streams and wetlands that are critical not just for trout and salmon fisheries but also for healthy watersheds and clean water for downstream businesses and communities.

In virtually every respect, the rule is a codification of the approach that the Environmental Protection Agency and Army Corps have used for most of the past 15 years to identify waters that qualify as "waters of the United States." This commonsense, science-based approach recognizes that pollution upstream can have downstream impacts, and thus we must protect the whole system to safeguard downstream communities and the environment. The rule also maintains longstanding Clean Water Act permitting exemptions for routine farming and ranching activities like plowing, cultivating, minor drainage, and harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices, protecting these important economic activities. Using the CRA to attack this rule would prevent future administrations from issuing rules that are "substantially the same," meaning that both protections and exemptions codified in this rule, including those for the agriculture industry, could be called into question in future rules to define "waters of the United States."

In addition to providing drinking water for our homes and businesses, the small streams and wetlands under threat also provide clean water for farmers, keep the economy afloat, protect communities from floods, serve as natural features to promote water recharge and drought resilience, provide critical wildlife habitat, and enhance outdoor recreation opportunities including hunting and fishing. Wetlands alone can absorb vast quantities of water during heavy rains or storms - one acre of wetlands can store up to 1.5 million gallons of floodwater which can reduce downstream impacts to critical infrastructure and promote resilience to drought. The fish and wildlife that sustain our outdoor passions and support the nation's \$887 billion outdoor recreation economy rely on these small streams and wetlands as well.

Ephemeral and tributary streams serve as important spawning grounds as well as nursery habitat for juvenile fish, such as salmon and trout. Roughly half of North American waterfowl hatch in the Prairie Pothole Region, shallow, depression wetlands that are particularly at risk, and more than a third of North American bird species rely on wetlands for food, shelter, breeding, nesting, and rearing their young.

The economic benefits of hunting and fishing alone – which total \$200 billion a year – are especially pronounced in rural areas, where money brought in during fishing and hunting seasons can be enough to keep small businesses operational for the entire year. Without clear federal protections for these waters and everything they feed into, hunting and angling across the country would be irreversibly harmed, devastating the outdoor recreation economy.

H.J.Res.27/S.J. Res. 7 is a dangerous attempt to open up our wetlands and streams to pollution and destruction. This effort to undo fifty years of progress to protect clean water threatens the water resources that are critical for fish and wildlife, downstream communities, and the drinking water for millions of Americans.

We urge you to **oppose** H.J.Res.27/S.J. Res. 7 when it comes to the floor for a vote. Thank you for considering our views.

Sincerely,

Douglas J. Austen, Ph.D.
Executive Director
American Fisheries Society

Scott Garlid
Executive Director
Arizona Wildlife Federation

John Gale
Vice President
Backcountry Hunters & Anglers

Tom H. Logan
Chairman/Senior Advisor - Conservation
Fly Fishers International
Board Conservation Committee

Dan Borett
Executive Director
Indiana Wildlife Federation

Jared Mott
Conservation Director
Izaak Walton League of America

Jim Murphy
Director of Legal Advocacy
National Wildlife Federation

Russell Kuhlman
Executive Director
Nevada Wildlife Federation

Tom Butch
President
Ohio Conservation Federation

Alexander Funk
Director of Water Resources
Theodore Roosevelt Conservation Partnership

Kate Miller
Director of Government Affairs
Trout Unlimited

Senator CARPER. All right, Senator Sullivan. Welcome.

Senator SULLIVAN. Thank you, Mr. Chairman.

Mr. Regan, good to see you again, sir. Thanks for coming.

I have a chart that I keep trotting out to all your nominees and everything. This is the global emissions chart, it is fact checked, from 2005 to 2020. It shows the fact that isn't often discussed in our national media that the U.S. is the leader, leader by far of any country in the world on global greenhouse gas emissions reductions. Here, that is America. Some of our allies, Germany, U.K., and then of course, you have the dirty countries, particularly China, that is the greenhouse gas emission machine of a coal plant a month.

So I asked your nominees, I am sure you have hopefully seen this, do you understand why that happened? What was the major reason that the United States has been the leader in the world on emissions reductions? Do you know? And I will give you a hint. It is not because of EPA regulations.

Mr. REGAN. I think that is pretty clear, and I think I have been pretty clear that the markets over the past 10 years have really steered this country to be as competitive as it is.

I would also say that the power sector has asked for more certainty so that they can make longer term investments, which is why we have worked to kind of bundle what the Clean Air Act requires us to do in terms of some of these regulations—

Senator SULLIVAN. So the answer to my question, that is primarily, the reason for that is the revolution in the production of natural gas in America, the private sector, American innovators, American entrepreneurs undertook some great innovations and made clean burning American Alaska natural gas the predominant power generation source, which dramatically helped us lead the world in emissions reduction. So that is a fact, so you guys should all know that.

So here is my question. You are the G7 delegate, you play an important role in the G7 negotiations. Well, let me just back up here. If the rest of the world could undertake a chart and record like that, meaning you move from power generation sources into natural gas, you lower your emissions dramatically, wouldn't that help global emissions, if other countries had this profile like we do?

Mr. REGAN. I think that our country—

Senator SULLIVAN. Mr. Administrator, these are really easy questions. You should just say yes, right? Wouldn't it help?

[Simultaneous conversations.]

Mr. REGAN. I reject the premise of the statement that natural gas is the reason emissions are where they are. There is a combination of—

Senator SULLIVAN. You reject that statement? You have got to go do your homework, there.

Mr. REGAN. No, I have done a lot of homework.

Senator SULLIVAN. OK, and you—

Mr. REGAN. There are combinations of technologies—

Senator SULLIVAN. The primary reason for that chart is—

Mr. REGAN. There are combinations of technologies that are driving our emissions reductions in this country. That is just a fact.

Senator SULLIVAN. You don't think the primary reason for the emissions reductions in America was the movement from coal powered generation to natural gas, revolution in the production of natural gas?

Mr. REGAN. I absolutely——

Senator SULLIVAN. That is a fact, too.

Mr. REGAN. I absolutely——

Senator SULLIVAN. And as the EPA Administrator, you guys are amazingly good at like avoiding this fact. I don't know why. You should be proud that America is the leader in emission reduction, and you should know the reasons why it is. So let's move on.

Mr. REGAN. But there is no accounting of the transportation sector in your statement. We know that transportation——

Senator SULLIVAN. Let's move on. Let's move on.

Mr. REGAN. All right.

Senator SULLIVAN. G7, the Japanese want to make LNG and energy security a key part of their G7 presidency, which you are member of in terms of G7 delegates. We have been hearing that some members of the Administration were trying to thwart the Japanese on this, that makes complete sense, particularly given this chart.

So a number of us sent a bipartisan letter to Ambassador Emanuel, and I would like to submit it for the record, Mr. Chairman, have written saying we support that, and we should have the Japanese support that. We were hearing it was John Kerry, so I actually had a discussion with John Kerry down in Houston a couple weeks ago. He said no, it is not him, he is supportive of a strong G7 presidency by the Japanese that emphasizes energy security, particularly LNG.

So can I get your commitment as the G7 delegate on the energy and environment side to also support our ally Japan's strong desire to want to make this G7 about energy security, lowering emissions, helping our allies, particularly in the aftermath of the brutal invasion of Ukraine by Russia?

Can I get your support to do that, which is what our allies are trying to do? John Kerry says he is good to go with it, so nobody else should be problematic on that issue.

Mr. REGAN. I haven't stood in the way of the conversations you just laid out.

Senator SULLIVAN. The Japanese are making that an important element of their G7 presidency. Will you be supportive of that? Will you be supportive of that as the G7 delegate?

Mr. REGAN. I have had a number of conversations with Ambassador Emanuel, and I will continue to converse with him. I don't see any daylight in these conversations that he and I have had. I can't purport to know all of what you just laid out, and I haven't talked to Secretary Kerry about this issue in particular.

But EPA, Michael Regan, we have not weighed in on any LNG discussions that may or may not benefit the country of Japan.

Senator SULLIVAN. Well, I mean, it benefits all of us, right? This is part of the G7 negotiations that you are a part of?

Mr. REGAN. Absolutely.

Senator SULLIVAN. OK, thank you, Mr. Chairman. I have a couple additional questions for the Administrator for the record. It

would be good to get your view, we can send you things that relate to this chart.

It is very important to have common understanding here. And I think the common understanding is that the revolution in the production of natural gas has played a critical role in emissions reductions in America and in the world, and that is a good thing we should all celebrate. Thank you.

Senator CARPER. Thank you, Senator Sullivan.

I ask unanimous consent to enter into the record findings from PolitiFact showing that the United States is not leading the world in reducing global emissions.

What is PolitiFact? An independent fact checking journalism website. The article finds, "Relative to the scale of emissions, other leading economies, other countries show much deeper emission reductions." The article also finds that carbon dioxide emissions per person in the United States remained high compared to four leading countries between the years of 2005 and 2019.

I ask unanimous consent.

Without objection, so ordered.

[The referenced information follows:]



[Dan Sullivan](#)

stated on March 23, 2022 in a Senate hearing:

In cutting greenhouse gas emissions, the United States is “the leader in the world by far.”



Liquefied natural gas carriers under construction in South Korea in 2018. Some U.S. lawmakers say expanded American natural gas exports are the key to cutting global carbon emissions, but others see more costs than benefits. (AP)



By [Jon Greenberg](#) April 6, 2022

Does the US lead in cutting greenhouse gases? It depends on how you look at it

IF YOUR TIME IS SHORT

- Carbon dioxide emissions in the U.S. fell by about 880 million metric tons in 2019 compared to 2005.
- That was more than any other country, but as a percentage change, the U.S. ranks fifth worldwide.
- On a per-person level, U.S. emissions remain twice that of China.

[See the sources for this fact-check](#)

The latest United Nations [climate change report](#) had a grim forecast: If greenhouse gas emissions don't peak within three years, then there's little hope of limiting the global temperature rise to 1.5 degrees Celsius.

Alaska Republican Sen. Dan Sullivan says one of the best moves the United States could make is to speed up the shift in places like China and India from coal to natural gas.

Sullivan has a plan to increase American natural gas production, liquify it and ship it overseas. His key supporting argument is the hefty 14% drop in American carbon dioxide emissions over the last 15 years.

"If every other country in the world had a record like this, where do you think we would be on global emissions?" Sullivan said at a [March 23](#) Senate hearing. "We are the leader in the world by far."

Whether the U.S. is the world leader in cutting emissions depends on how you measure things. In total metric tons, Sullivan is right. But in relative terms, many economic peers achieved steeper declines.

Sullivan's chart requires a closer look

At the Senate hearing, Sullivan displayed a chart showing the change in carbon dioxide emissions in nine countries between 2005 and 2020. The U.S. stands out with a fall between those years of 970 million metric tons of carbon dioxide. Japan's emissions went down 237 million metric tons. China, on the other hand, released an additional 4,689 million metric tons in 2020 than it did in 2005, while India's emissions rose 1,315 million metric tons.

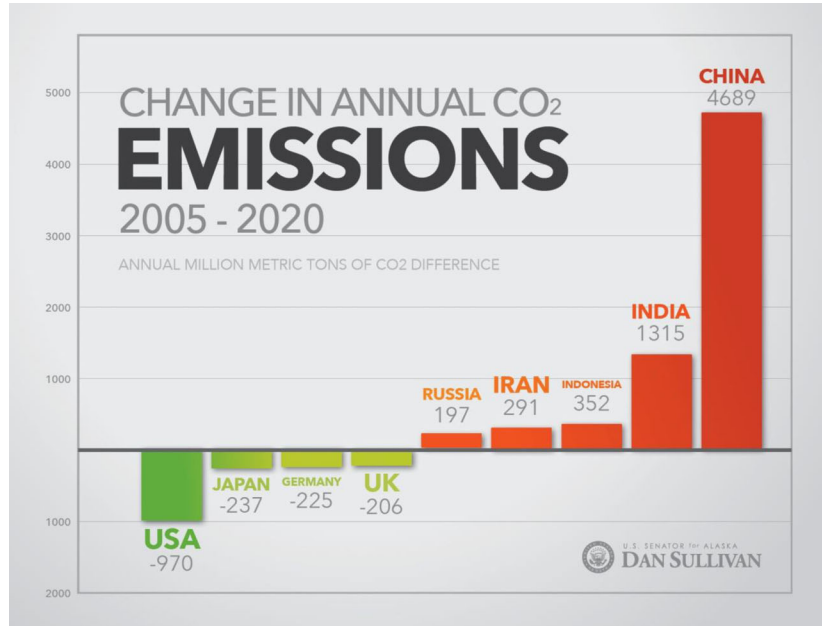


Chart used by Sen. Dan Sullivan, R-Alaska, to show carbon dioxide emission trends for nine countries. (Office of Dan Sullivan)

Sullivan's staff pulled these numbers from the website [Our World in Data](#), a reliable resource based at the University of Oxford in England. The numbers are accurate, although climate trackers warn against including 2020 numbers, because the COVID-19 economic shutdown distorted normal emission patterns. In our analysis, we looked at 2005 to 2019.

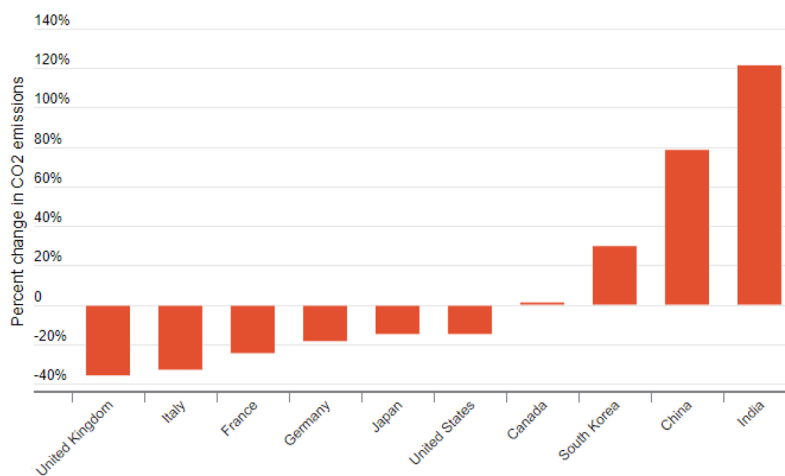
The first caveat to Sullivan's approach is that he uses absolute numbers. Rob Jackson, an earth systems professor at Stanford University, said the chart is "conveniently misleading." The United States has the largest reduction because, in 2005, Jackson said, it had the highest emissions.

"Other countries, in Europe in particular, have done far more than we have to reduce greenhouse gas emissions," Jackson said.

Looking at the percentage change in carbon dioxide emissions, the United Kingdom made the greatest progress, with a reduction of 35%. Italy, France and Germany came next. The United States and Japan tied for fifth place with reductions of about 14%.

Based on relative changes in CO2 emissions, the United Kingdom had the greatest reductions; the U.S. ranked fifth

Showing the percentage change in annual carbon dioxide emissions in 2005 and 2019 for the 10 largest economies.



Source: [Our World in Data](#)

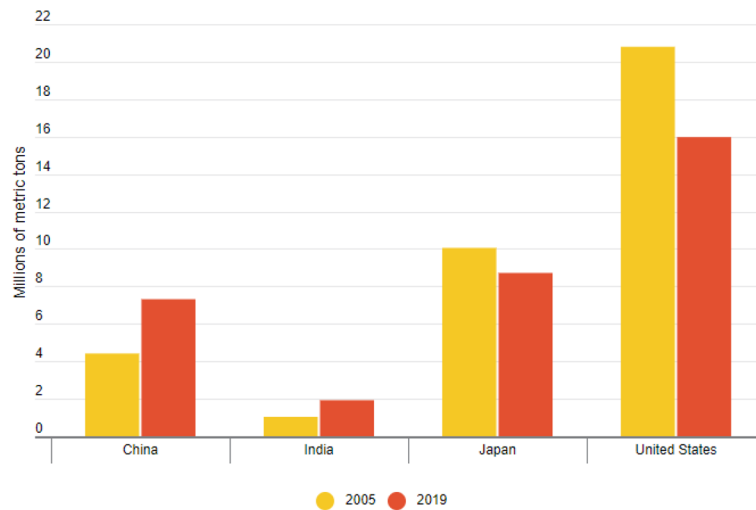
Sullivan spokesman Ben Dietderich agreed that the relative changes reshuffled the rankings, but he countered that the absolute number of tons mattered most. It's the tons of carbon dioxide that affect the global climate, he said. At the end of the day, Dietderich said, the United States made the largest contribution to reducing carbon dioxide emissions.

Jackson raised another issue with Sullivan's chart — it left out emissions per person. China's emissions are enormous, but the country also has 1.4 billion people. Viewed through that lens, despite the decline in U.S. emissions, the United States remained the larger emitter per capita.

"Our per capita emissions are still twice China's and eight times higher than India's," Jackson said.

CO2 emissions per person remain high in the United States, even as emissions fell

Comparing annual tons of carbon dioxide emissions among four key countries in 2005 and 2019



Source: [Our World in Data](#)

Sullivan's focus on carbon dioxide doesn't give the full picture of American emissions. There are other greenhouse gases, most importantly methane and nitrous oxide. The same website that provided the carbon dioxide numbers also has data for greenhouse gases across the board.

Factoring in all greenhouse gases, the U.S. trends are less dramatic. The total decline goes from a reduction of 879 million metric tons to 607 million metric tons. As a percentage, the decline goes from 14.3% for carbon dioxide alone to 9.5% for all greenhouse gases combined. The numbers work that way because it doesn't take much of those other gases to put a lot of carbon into the air.

While natural gas was the [single largest factor](#) in cutting U.S. emissions, major contributions also came from the rise in [wind power](#) and efficiency gains in American industry that lowered demand.

The limits of expanding natural gas production

Sullivan's point was that if other countries followed the United States' lead, global emissions would fall. Since the blossoming of natural gas production played a large role in the U.S., it makes sense, he said, to expand production further and export to coal-burning countries like China and India.

Not so fast, say energy researchers.

Michael Young, a senior scientist at the University of Texas at Austin, said building the pipelines and processing plants to send natural gas overseas adds carbon to the atmosphere. It's possible, Young said, that exports to Asia could reduce emissions there if they replaced coal or wood.

"But it's also true that liquified natural gas from the U.S. will embed carbon dioxide emissions in the production and transportation of the fuel, reducing the benefits," Young said. "Whether the two balance out depends on many factors."

Ben King, a senior analyst at Rhodium Group, a private research center, said while industry is getting better at preventing the release of methane gas, it still happens in the liquefaction process.

More troubling, King said, is that building new plants to export natural gas is a 30-year investment.

"Locking in long-lived fossil fuel assets runs directly counter to the need, recently affirmed in the latest International Panel on Climate Change report, to quickly transition away from uncontrolled fossil fuel use," King said.

Our ruling

Sullivan said the United States is "the leader in the world by far" in cutting greenhouse gas emissions.

In absolute terms, that is accurate – but it isn't telling the full story. Relative to the scale of emissions in other leading economies, other countries show much deeper reductions. Sullivan also left out emissions per person in the United States. While those have gone down, they are still about twice as high as they are in China.

We rate this claim Half True.

Our Sources

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Email exchange, Rob Jackson, professor of earth system science, Stanford University, April 5, 2022

Email exchange, Michael Young, senior research scientist, Jackson School of Geosciences, University of Texas at Austin, April 4, 2022

Email exchange, Ben King, senior analyst, Energy and Climate, Rhodium Group, April 5, 2022

Interview, Ben Dietderich, spokesman, Sen. Dan Sullivan, April 5, 2022

Senator CARPER. I am prepared to ask questions next in this round.

Senator Capito, I think you have some more questions, too, don't you?

Senator CAPITO. I have an additional question, then I am going to have to scoot.

Senator CARPER. Do you want to go first?

Senator CAPITO. That would be nice, thank you.

Mr. Administrator, one of the issues, and we talked about this at the derailment with the EPA official who was there, is the mixed communication as to what is safe and crisis communications that EPA has moved forward with. If you don't have specific and detailed information, the gaps get filled with misinformation. It is concerning.

So I want to ask you about, I congratulate you on finally setting the maximum, the MCL levels for PFAS, we talked about that. But at the same time, oh, gosh, several months ago, you put out something called a health advisory level. The health advisory level is so low that it can't be measured, so nobody knows whether the health advisory level is safe or not.

So basically now you have two levels. You have a health advisory level, which is very low and unmeasurable, and then you have the four parts per trillion that you set last week, I believe, that was considered safe. However, when Assistant Administrator Radhika Fox was here, she said there is no safe level for PFAS in drinking water.

This is a very sensitive, as you know, we all know, very sensitive issue across the country, and very grave implications on how do we fix it, yes.

But on the health side, what does this really mean? How is that kind of communication helping the American public, the mom with the kids or the grandparents with frail health, or anybody who is drinking? How are they really going to know with the Assistant Administrator saying nothing is it, very low health advisory, and then the maximum contaminant level being slightly higher?

How do you square that to the American who is turning on their tap every day?

Mr. REGAN. Thank you for that question. This has been a challenge for risk communication for a long period of time. Obviously whether it is lead, whether it is PFAS, the agency traditionally puts out what we call a health advisory level that really does follow the science and determine at what levels things are or are not safe.

We put that out there because we want to educate the public, because there are actions that can be taken beyond those actions that can be taken by the Federal Government. So our standards are required based on what is detectable, and then the technologies available to get them to that level. Just because something can be detected at a certain level and a technology can reduce it to that level doesn't mean that therefore it is 100 percent fully safe. There is that gap there.

So there may be things that you can do as an individual or that a State or local can do to get even lower vulnerabilities or risk or exposure to that health advisory level.

Senator CAPITO. So what I am hearing you say is that the safe drinking level that you set last week is not really safe? Is that what you are saying?

Mr. REGAN. What we are saying is——

Senator CAPITO. Why would you set it there?

Mr. REGAN. We have set a level that is more protective of public health, meaning we have set it at that four parts per trillion level because we can detect it at that level, and we have the technology to reduce it to that level. It is more protective than if we had not had a regulation in place.

Senator CAPITO. Well, I mean, I am glad. I am glad that we have this MCL. I applaud it. I have been complaining for years that we can't get this level. So under your EPA, you set the level. So thank you.

But you are really saying, I don't know, now I am confused. Because what I am hearing you say is, well, we set a level because that is all we can detect, but we are not really sure it is safe. See, if you are sitting at home thinking, well, what does that mean, in terms of turning on the tap and drinking?

So I just think we have to be really careful what we tell the Americans. I went through a water crisis with heavy chemicals in my own municipal system. It is a crushing thing to live through, and to try to figure out who is telling you the truth and what is safe and what isn't.

So I would just implore you to be, I don't know why you wouldn't want to be unified with your health advisory level and your maximum drinking level so that people can be assured that your science is telling me that this is safe. So this is a discussion we need to have, because I do think it foment's confusion. And I think it is difficult for water systems, but it is difficult just for regular folks to figure out with everything in the news about PFAS what is really safe in my drinking water, and am I using the best methods that I can use.

So we can talk about it. I just wanted to say there is a lot of confusion here, and I think we could avoid that. Thank you.

Mr. REGAN. Absolutely, thank you, Senator.

Senator CARPER. Senator Capito, I know you need to leave, but I am going to ask you just to bear with us for a couple more minutes. I need to take a call. In the meantime, I yield to Senator Ricketts, and I will be right back. Thank you.

Senator RICKETTS. Great, thank you, Mr. Chairman.

Mr. Regan, as you know, actually, you may not know, I was previously the Governor of Nebraska, and then I joined Governors from across the Midwest to formally request, to permanently remove the 1 pound volatility waiver to allow States to sell gasoline with E15 all year round. This is an important point, because one of the things, I love this Committee because I get to talk about this, and now that Chairman Carper is gone, I can say this, and he won't get on my case. Last time he corrected me, and ended my time.

Ethanol is something that will help consumers save money at the pump. I just filled up my tank at Hi-Vee a couple of days ago when I was back in Nebraska, and I saved 60 cents a gallon. That was just E10. It helps clean up the environment.

I know you know how much it reduces things like particulate matter and NO_x and all that sort of stuff coming out. Then of course, it is also great for our farmers and ranchers. So we asked to be able to sell E15 all year round.

The Clean Air Act states that the Administrator should publish the regulation resolving this action no later than 90 days after receipt of a notification from a Governor, but our renewable fuels industry and producers or refiners didn't receive anything until March 1st. This should have been done in July.

So can you tell me why, explain why it took more than the 90 days that is in the Clean Air Act to respond to this regulation? And what are your plans for E15 this summer? And I know that you have a rule for 2024 to be able to allow it. But can you talk to me a little bit about that, please?

Mr. REGAN. Absolutely, and thank you for the letters. I understand why this is important, and I know it was important to you before you took this position. So we are excited about moving toward the waiver for 2024. We know the timing is different than what was initially requested. And I believe our folks were being responsive to fuel distribution companies so that they could be prepared for next year, not this year.

I recognize that we are on a slightly different clock. I will get you a more specific answer as to what took longer than the 90 days to figure out. But I can say that we are excited about 2024. And for 2023, what we will have to do is do what we did last year, which is assess it case by case as we get closer to that time.

Senator RICKETTS. All right, very good. And I also want to get back to the biomass thing, very quickly. Because I do think it is important that as we look to take carbon out of the environment, we look at an all of the above strategy. And the biomass is important.

One of the things I wanted to call out in that is, I was talking to people in the industry, and do you know, when we talk about heavy trucks, the difference in the cost of a vehicle that can use biodiesel versus an electric vehicle, do you know what the ballpark difference is? It is pretty big. I take it by the way you are looking at me that you don't really know that answer.

It is \$180,000 to buy that tractor, versus \$500,000 to buy an electric tractor. And I think my colleague Senator Mullin pointed out that when you have electric vehicles, it is a lot heavier, which means you are not going to be able to carry as much with you, and you are also not going to, you have the whole distribution issue, and it is also going to beat up the roads.

So again, that is one of the reasons why I think I might really like you to re-look at that biomass thing. I think that is going to be important for us as we look at an all of the above kind of strategy.

And then one other question I have is, getting back to your budget request, you are asking for 2,000 new people. Help me with this part of it. So I believe part of the justification, and correct me I if am wrong, has to do with the Inflation Reduction Act and all the programs that are in that that you are assigned to be able to tackle.

When this goes through the budget process, like when I was Governor of Nebraska, and we would have a bill, my administration would score a bill to say, hey, if you pass this legislation, we are going to need X amount of people, and that would go into a fiscal note.

Does that happen, or did that happen with this, so that when the Inflation Reduction Act was being talked about, you had a chance to weigh in and say, hey, if you pass this I am going to need 2,000 or 1,000 more people or anything like that? Is that part of the process?

Mr. REGAN. We can provide technical assistance as these pieces of legislation are developed. I will give you some real numbers, when we think about the Greenhouse Gas Reduction Fund, .5 percent of that is for administrative.

So when we look at some of these bills, like TSCA for example, that was passed in 2016, some of these bills are passed, and they don't give the agency the adequate resources to keep pace with what the legislation requires. That is just part of the reality.

It is not new with the Inflation Reduction Act. Again, going back to TSCA, we were facing that similar situation.

So that happens, and we try to reconcile some of this through the budget process. And a good deal of that is what we are trying to do now.

Senator RICKETTS. So we need to do a better job on our side as is what I hear in making sure that we are consulting with different agencies to make sure we get an accurate budget reading when we are passing these bills. Is that a fair statement?

Mr. REGAN. We do the best that we can to provide the technical assistance to any piece of legislation to say, this would be the human capital impact to our agency, along with what we think we need to execute or implement that legislation.

Senator RICKETTS. Thank you very much.

Senator CARPER. Thank you, Senator Ricketts.

Again, Administrator Regan, we thank you for joining us today and responding to our questions.

I want to ask a couple of questions. One deals with investments in State and tribal air offices and permitting. It is easy to forget how large a role that States and Tribes and local governments play in implementing our clean air laws.

EPA's budget provides, I think, \$423 million, a \$158 million increase over fiscal year 2023 in financial support to tribal, State, and local partners to implement air quality management programs, including air permitting.

Could you please provide our Committee with some insights on why these additional funds to States, to Tribes, and to local governments are needed, and how could these funds help with local air permitting and other local air and climate issues?

Mr. REGAN. It is a great question, Senator. As you know, for most of our water and State programs, we have delegated authority to the States for the implementation. So again, 85 percent of our budget request on average goes to our State, local, and tribal partners. They use these resources to, No. 1, do a lot of public engagement, not just with communities, but with the companies that reside in their districts, those who are regulated by the agency.

No. 2, they invest in air quality monitoring and other practices to be sure that they have the latest and greatest data, so the permits can be set at the accurate levels. So again, these State agencies know their communities better than the Federal Government. That is why they need these resources, to continually engage, not only with the regulated community, but the communities that are impacted by the pollution.

Senator CARPER. All right, thank you.

Another question dealing with certainty and predictability, a heavy duty NO_x rule. Throughout my time in public service, which has been a while, I hear more often than not from the private sector about the need for Federal Government and State government and local governments as well to provide certainty and predictability. I hear it all the time.

Businesses need certainty and predictability to make long term investments and decisions. That is especially true for vehicle and engine manufacturers who are making investments today for the vehicles of the future.

This past December, I was fortunate enough to join your celebration of the signing of the Heavy Duty Vehicle NO_x rule. This rule will reduce smog contributing pollution from our heavy duty vehicles by 48 percent by 2045, 48 percent by 2045. I believe many companies were there celebrating with us.

Here is my question. How is the Heavy Duty Vehicle NO_x rule a good example of an EPA action that is good for public health and good for predictability and certainty for businesses that need it and ask for it all the time? Go ahead.

Mr. REGAN. It is a great example of how, under this Administration, we have engaged with industry, with the unions, with our communities to try to get the best technology standards possible.

So we are proud of this rule. We engaged heavily with the industry looking at where the markets and the technologies are going. We engaged heavily with the unions to ensure that there wasn't an adverse impact but actually a jobs component to this. And we engaged with those communities, especially vulnerable communities that are disproportionately exposed to NO_x emissions.

Where we think we calibrated this action was toward a rule that satisfies all three constituencies. We are going to do the exact same thing as we continue to roll out other technology standards for the transportation sector. We are looking forward to rolling something out in the coming weeks on greenhouse gas emissions reduction for heavy duty and light duty as well.

Senator CARPER. All right, thank you.

I am going to ask another question. Would you elaborate on how streams and adjacent wetlands are very directly connected to the health of our Nation's navigable waterways? Is that why the 2023 Waters of the U.S. rule includes protection for streams and wetlands?

Mr. REGAN. Absolutely. We know that the Clean Water Act requires that we protect and not degrade our stream and our wetlands. We also know that our wetlands serve as natural filters to reduce pollution to some of our larger bodies of water.

So it was really important for us to be sure that we were protecting not only our ecosystem and our waterways, but giving our

farming community and our ranching community the flexibility to perform the way that they normally do, which is in a protected manner.

We have done our best to look at multiple exemptions, codify certainty, while also following the law to be sure that we don't expose ourselves to litigation while we are protecting the ecosystem. We try to strike that balance to understand that everybody is not satisfied, but we are trying to follow the law, follow the science, and work with our partners like USDA to be sure that we are not overly burdening our ranching and farming community.

Senator CARPER. All right, thanks. I am going to ask you to elaborate by responding for the record on how the 2023 rule responded to concerns from stakeholders and is narrower than the 2015 Obama rule on isolated wetlands. I will ask you to respond for the record on that.

Mr. REGAN. This is for the record?

Senator CARPER. Yes, on the record.

Mr. REGAN. Yes, sir.

Senator CARPER. All right, thanks.

Senator Sullivan has rejoined us.

Senator Sullivan, please.

Senator SULLIVAN. Thank you, Mr. Chairman.

I am doing this for the Ranking Member, she didn't have time to ask unanimous consent to enter into the record letters opposing the EPA's Waters of the U.S. final rule, supporting efforts to reverse the rule under the Congressional Review Act. These letters are from the National Federation of Independent Businesses, the National Association of State Departments of Agriculture, representing our State officials most knowledgeable on the concerns of farmers, the Associated Builders and Contractors, and a coalition letter from more than 40 organizations opposing the rule, from organizations including the American Farm Bureau, Association of Home Builders, National Association of Manufacturers, U.S. Chamber. So I ask unanimous consent.

Senator CARPER. Without objection.

[The referenced information was not received at time of print.]

Senator SULLIVAN. I also ask unanimous consent to enter into the record a coalition letter from many of these same stakeholder groups explaining specifically why the current WOTUS rule is significantly worse for farmers, ranchers, energy producers, manufacturers, construction workers than the pre-2015 guidance that would take effect if there was a CRA resolution of disapproval passed and signed.

Senator CARPER. Without objection.

[The referenced information was not received at time of print.]

Senator SULLIVAN. Thank you, Mr. Chairman.

So, Mr. Administrator, two final quick questions for you on topics you and I have talked a lot about. One is, in December, you and I had what I thought was a constructive discussion regarding the EPA's use of its 404(c) authorities. Particularly we talked about particular mining projects in Alaska. And you committed to me that any use of those authorities would not be precedent setting when the EPA finalized its recent 404(c) action on the already denied Pebble Mine.

I appreciated your statement at the press event where you said by no means is this meant to send any signal as a precedent beyond this specific project. And last week, Assistant Administrator Fox committed to me essentially the same thing that you had, both in our meeting in December, when you said publicly, since you are here in front of the EPW Committee, this is a bit pro forma, but you have already committed to me on this.

But for the record, will you make the same commitment about this not being precedent setting, that you have in our conversations, and then in your press statement?

Mr. REGAN. Absolutely. It is definitely case by case, not meant to send any signals. This is a tool that we use very sparingly, I think only three times in 30 years. So I think the record for that speaks for itself, and I think Assistant Administrator Fox and I are 100 percent aligned on that.

Senator SULLIVAN. Great, thank you.

Let me turn to the issue of, I know environmental justice, racial equity are important to you. I want to raise an environmental injustice in Alaska, an issue against the Alaska Native people that unfortunately some people in this Administration consistently overlook. This is another one, though, that you and I have talked about, where I believe you and your administration have been helpful.

We have over 1,000 sites that are contaminated land sites that are owned by the Alaska Native people after the passage of the Alaska Native Claims Settlement Act, that was 44 million acres of land and the largest land settlement in the history, probably in the world, for Native people. And yet, in many cases, that land that the Federal Government provided to the Native people was contaminated.

Now, I am not saying the Feds knew it was contaminated. But it is very contaminated, a lot of that land. And initially, believe it or not, it was unclear whether the EPA and the Federal Government was going to come after these Native organizations and Tribes for liability to clean up land that the Feds had given to them that was contaminated.

Fortunately, in this Committee, and I thank the Chairman, we worked together in a bipartisan way to say, hey, that would be nuts to hold them liable, since they were the ones given the land that was already polluted.

But what we need to start working on now is helping these indigenous people in my State clean up the lands. So will you agree that this is an environmental injustice that we have got to work on, to get them lands? And an important landmark agreement, but a lot of the lands were very polluted, and they can't use them.

Mr. REGAN. Yes. I will absolutely agree that we need to work diligently together to clean up these lands that were unfortunately impacted.

Senator SULLIVAN. Good, thank you. And I will say, the EPA under your leadership, has been helping us on this, so I appreciate that. It is going to take money, of course, to clean up. But the one thing I would like to get a commitment from you on is working with us on some innovative approaches.

You and I have talked about the mitigation banks for wetlands and things like that where you might be able to get credit for

cleaning up, if someone, as opposed to putting land in a mitigation bank was able to help clean up these lands. Same kind of overall goal to help the Native people clean up their contaminated lands that were provided to them by the Federal Government.

Will you commit to me again, Mr. Administrator, to help on not just the funding, which you guys have been doing a good job on, and I commend you on that, but on some innovative ideas that we have talked about? The Trump administration had some really good ones, and I would like to continue to follow up on that with you.

Mr. REGAN. Our folks are laser focused on innovation, along with these resources. So absolutely.

Senator SULLIVAN. Good.

And finally, let me just ask, can I get your commitment that in working with us on these issues to ensure that Tribes and Alaska Native Corporations, remember ANC's were created by Congress, a lot of people forget that, that they are eligible for the brownfields grants to clean up contaminated lands?

Right now in Alaska there is confusion on who qualifies for that. From our perspective, if you want to help the indigenous people it is through tribal help. It is also through ANC help. There shouldn't be any real differences. As a matter of fact, the ANC's are the ones that own the vast, vast majority of the lands. So not including them on brownfields grants kind of defeats the purpose.

Can I get your commitment on that?

Mr. REGAN. We have got a \$20 million grant program specifically for ANCSA for last year and this year in the budget request.

Senator SULLIVAN. Great, so ANC's and Tribes?

Mr. REGAN. Yes.

Senator SULLIVAN. Great.

OK, thank you.

Thank you, Mr. Chairman.

Senator CARPER. Thanks, Senator Sullivan.

We have been joined by Senator Whitehouse and Senator Markey.

Senator Whitehouse, you are recognized, and you will be followed by Senator Markey. Thank you.

Senator WHITEHOUSE. Thanks very much.

Administrator Regan, welcome, glad to have you back at the Environment and Public Works Committee again. Congratulations on the progress that seems to be coming on GHG emissions rules and regulations. I appreciate that very much.

You may have said it in your prepared testimony, but do you have a general idea of what the schedule is for the rollout of GHG emissions rules in the months ahead?

Mr. REGAN. We do. I would say for the 111 rules, we are looking at late April, which focuses on controlling greenhouse gas emissions from our power sector. We have rules coming out for our heavy duty vehicles and light duty vehicles in the coming weeks, which we are excited about.

Senator WHITEHOUSE. Ahead of the power plant ones?

Mr. REGAN. Ahead of the power plant rules. And then we hope to have soon a rule that is focused on our risk and our Mercury Air Toxics Standard as well, which is important, because it is an

air toxics rule. But we are trying to provide some regulatory certainty and a picture for the industry and for our communities on how all of these things coincide with one another.

Senator WHITEHOUSE. It matters a lot to us in Rhode Island, and I suspect in Massachusetts as well, and I suspect Delaware as well, as downwind States. We get a lot of that stuff that comes our way. I can remember when the plan for dealing with pollutants coming out of power plants was to raise the smokestacks higher so that it shot farther up into the air and traveled away from the polluter State and landed more on our States. Thanks a bunch.

So you guys being there to regulate that is really important to us. Because when the home polluting State, their solution is that they dump it higher up into the atmosphere so it falls on other States more, that is not a great solution.

Let's talk a little about methane. You guys have a terrific methane rule rolling along. We have talked before about how bad the reporting is of methane leakage, and there are organizations that have taken a hard look at it, and are concerned that we are really under-reporting by a lot.

What are you doing to make EPA methane reporting more accurate to the actual methane leakage that is out there?

Mr. REGAN. We have been engaged in a lot of robust conversations with the industry, with the private sector, with non-profits, looking at the best available technologies and best management practices that we can all use and coincide with, or collaborate on. We do have a proposed rule and a supplemental that is coming out.

Senator WHITEHOUSE. Will it improve the reporting accuracy?

Mr. REGAN. It is going to improve the reporting, the data collection, and the innovation around the technologies that can be used to control methane. That, coupled with the \$1.5 billion from IRA, will go directly to the States to help with some on the ground community led projects, abatement projects. It is going to be transformational for this sector and for methane.

Senator WHITEHOUSE. We had your colleague in the Cabinet, Attorney General Garland, in the Judiciary Committee. And in response to my questions, he acknowledged that the Department of Justice was going to put together a task force to look at enforcement against methane leaks across the various departments and divisions within Justice.

I asked him to keep building it out, that I would like to see a whole of government enforcement approach in which EPA, Interior, Treasury, Justice, and also potentially State and local enforcement officials had a role designing strategies to, when you find a leak, fix the leak, and make sure that the response is quick by the lawyers to make sure it gets fixed.

What is your status with respect to interagency cooperation on methane enforcement, once a leak is detected?

Mr. REGAN. I am proud to say that we have a very strong relationship with DOJ on all of our enforcement programs. This one won't be any exception. So our folks are conversing. We are definitely prepared to take a look at this new regulation and the supplemental, and how it will be implemented and enforced along with these resources, the \$1.5 billion that we are doling out to the

States to hold them accountable for oversight and implementation and execution on how these resources will be put in place.

So we feel pretty good about it.

Senator WHITEHOUSE. Good. I urge you to support a completely broad, across the government, multi-agency, not just you and a DOJ task force to respond.

Last of all on methane, I know that the IRA was a big deal. Even with the IRA, we are still not on a pathway to climate safety. We are not even really close. We still need other major interventions.

One of the most important interventions is the social cost of carbon. And I know there is one baked into your methane regulation and that that is working through the administrative process. I urge you to make sure that the administrative process is as rapid and robust, not rabid and robust, although rabid might not be a bad way to look at it these days.

[Laughter.]

Senator WHITEHOUSE. As rapid and robust as it can be, to get that social cost of carbon into law as quickly and firmly as possible. Will you do that?

Mr. REGAN. Absolutely.

Senator WHITEHOUSE. Thank you.

Senator CARPER. Thank you, Senator Whitehouse, for interjecting a little levity into a Committee that needs it right now.

Senator Markey, you are on.

Senator MARKEY. Actually, rabid is how dark money groups view Senator Whitehouse every day.

[Laughter.]

Senator CARPER. Strike that from the record.

Senator MARKEY. He is like the Javert of rabid,

Senator WHITEHOUSE. Point of honor for me. I don't resent that description at all. But I am taking Senator Markey's time, so let me yield it back.

Senator MARKEY. Thank you.

Thank you, Mr. Chairman.

Obviously, the U.N. this week made it very clear that the world is now on thin ice, and that we have to do even more. So these regulations that the EPA is about to announce, they are our response, they are the answer that we have to have, for light trucks, heavy trucks, for utilities, for mercury. Strong new regulations send the right signal to the rest of the world that we are serious about this, that we are going to be the leader, that we lost time during the Trump administration, but now the United States is back, not as the laggard, but as the leader.

So it is just so important that those regulations be the strong regulations that the planet needs, especially what was just announced this week by the United Nations.

As well, and we thank you, Mr. Regan, for your leadership, you understand better than any Administrator ever how local, hyperlocal so many of the effects of pollution are, and that hyperlocal air quality monitors can identify air pollution hot spots, empower residents with information about the problems and the solutions of the injustice of poor air quality. Because we can't manage what we don't measure.

I have been introducing legislation for years on environmental justice, air quality monitoring, and a lot of funding was included in the Inflation Reduction Act in order to accomplish that goal. The Administration has already awarded over \$53 million for 132 community air monitoring projects across the country, including Bedford, Massachusetts.

As we know, it is tribal, low income communities, communities of color that have been living as sacrifice zones. And it is just so important for us to ensure that healthy air is no longer determined by ZIP code.

Mr. Administrator, will the EPA have a strategy to ensure that additional investments outlined in your proposed budget to ensure air monitoring data can be used to address those sources of pollution and empower communities to take action?

Mr. REGAN. Absolutely. The 2024 budget maintains that \$100 million commitment for air monitoring. We are going to build on that with what we have received in the American Rescue Plan starting out, and then those resources in the Inflation Reduction Act.

To your point, it is critical that these local communities have the technological ability to measure the air quality impacts that they are seeing on the front lines, feed that trusted data in concert with our State agencies' regulations to ensure that the permit reflects the adequate protection for the community.

Senator MARKEY. Beautiful. And in terms of the budget that you have, you are the watchdog on the beat. Is the budget you are submitting allowing you now at the EPA to build your work force, both through recruitment and retention, so they can properly perform their incredibly important job of protecting the air we breathe and the water that we drink?

Mr. REGAN. It is definitely putting us on a trajectory to do that. The percentage increase that we received last year was the first step. This year, I know 19 percent sounds like a lot. But when you look at the dollar amount and the needs of the agency, it is not. But it is positioning the agency to help this country stay globally competitive and keep up with the 21st century.

Senator MARKEY. Thank you.

On PCBs, asbestos, lead, they continue to poison our schools, households, workplaces across the country. And we absolutely have to provide the resources to make sure we are focusing on those issues. How necessary is this increased budget if we want EPA to actually be able to address toxic substances in communities and in our schools as well as to get them out of our economy to begin with where they are completely unnecessary?

Mr. REGAN. It is extremely important. I know that TSCA was a bipartisan victory that you and others hold high. I know it was one of the more personal motivators for you.

When I think about illnesses that are caused by toxics like TCE and the fact that we are just decades later finally getting to the point where we can propose the rights kinds of protections, it demonstrates how much of an uphill battle controlling these hazardous toxics are. We need the work force, we need the resources, and we are ready to do it.

Senator MARKEY. Yes. I only had two unions endorse me in my first race for Congress. One of them was the Asbestos Workers. Joe Zampitella, Sr., died from asbestosis, ultimately. That is why I was always interested in that issue.

So to the extent to which in the 2016 bill, Mr. Chairman, that passed on TSCA, it is just so important that we get the resources to the Administrator so that job can continue to be worked upon.

I might add as well something that is very near and dear to the heart of the Chairman and myself, it is the Climate Bank that we know you are working on to make sure that it is constructed in a way that will maximize the incredible potential which it has. And I want to thank you for working with us in terms of the construction of it, so that it can ensure that every community in America has access to the tens of billions of dollars which can be unleashed with a kind of bank that is properly constructed.

So I thank you for working with us.

Mr. REGAN. Absolutely. We will continue to work with you and your staff every step of the way.

Senator MARKEY. Thank you, Mr. Administrator.

Thank you, Mr. Chairman.

Senator CARPER. Senator Markey, thank you. Thank you for your good work and allowing me to be a partner on the Green Bank and the Methane Emission Reduction program and much other important work that we and others on this Committee have done.

They are waiting for me in the Finance Committee, but not for long, in order to get there and ask questions. So I am going to close out very quickly.

In doing so, I am going to ask for the record if you have any final comments you would like to make. And this is for the record, not for right now. Any final comments you would like to make, maybe a question you weren't asked but would have liked to have been asked. And if you had been, what your answer would have been. That is one I like to close with.

Also, I want to thank you for joining us today and fielding our questions and responding to them at some length. Leading EPA is not without its difficulties. And I think you are, and it is not just my belief, but I have actually heard it from some of my Republican colleagues here today, that you are doing good work. You don't hear that every day in this room with us. You are doing an exemplary job, and we thank you and the team that you lead.

For EPA to be successful in protecting human health and the environment while also providing greater certainty and predictability to stakeholders, the agency needs robust funding and a strong leadership team in place. With that in mind, I am hoping that this Committee can lead, again by example, and work together in bipartisan way to ensure that EPA has the resources and the leadership team that the American people deserve.

Before we adjourn, a little bit of housekeeping. Senators will be allowed to submit written questions for the record through the close of business on Wednesday, April 5th. And we will compile those questions and send them to you, to our witness and your team. We will ask you to reply by Wednesday, April 19th.

Again with heartfelt thanks, this hearing is adjourned. Thanks.
[Whereupon, at 12:10 p.m., the hearing was adjourned.]

[Additional material submitted for the record follows:]

United States Senate

March 6, 2023

The Honorable Rahm Emanuel
Ambassador of the United States
1-10-5 Akasaka
Minato-ku, Tokyo
107-8470 Japan

We appreciate your continued leadership in strengthening U.S.-Japan relations. Japan is not only a vital mutual security treaty ally but also the United States' fourth-largest trading partner and most significant source of foreign investment. Japan is also a critical U.S. partner for enhancing energy security in the Asia-Pacific region, an area where U.S. energy exports can play a notable role – in 2023 alone, the U.S. Energy Information Administration expects U.S. liquefied natural gas (LNG) exports to increase to more than 12 billion cubic feet per day. Alaska, for example, has over 40 trillion cubic feet of natural gas readily available for export, which can provide a number of strategic geopolitical benefits for U.S.-Japan relations, along with additional export facilities currently under construction along the Gulf Coast.

Following Russia's brutal invasion of Ukraine, G7 leaders quickly agreed to reduce and eliminate dependence on Russian gas as soon as possible. At the G7 summit last June, leaders recognized "the important role increased deliveries of LNG can play" in phasing out dependency on Russian energy and that "investment in this sector is necessary in response to the current crisis."¹ The international community recognizes the role LNG can play as a reliable, low-emissions fuel.

One year later, however, there remains a gap between the political commitment to backfill the supply of Russian gas taken off the market and the necessary policies to fill that gap. Excessive restrictions on public financing of gas projects and unnecessary delays in approving privately-financed projects impede the development of critical infrastructure to expand output and exports. These impediments must be addressed immediately, as U.S. allies and partners continue to face energy insecurity, with many forced to increase reliance on or return to higher-emitting energy sources.

As the President of the G7 this year, Japan has identified energy security as a key policy priority. We strongly urge you to further this initiative with Japan given their leadership in this space, and offer recommendations to advance energy security for the U.S., Japan, other G7 members, and their allies. Specifically, the G7 should agree to:

¹ G7 Leaders' Communiqué, Jun. 28, 2022 *available at* <https://www.consilium.europa.eu/media/57555/2022-06-28-leaders-communication-data.pdf>.

- (i) Encourage public and private investment in all segments of the natural gas supply chain;
- (ii) Review and, as appropriate, modify existing guidelines and practices with respect to public financing of natural gas infrastructure; and
- (iii) Review and, as appropriate, modify existing regulatory regimes and practices to facilitate timely approval of requests to develop and operate natural gas infrastructure.

It is imperative you work with Japan to achieve consensus among G7 members to implement their commitment to expand and ensure a sufficient supply of natural gas in a manner consistent with their climate commitments. We appreciate your consideration of our views and look forward to continuing to work with you to strengthen security, economic and energy relations between the United States and Japan.

Sincerely,



Dan Sullivan
United States Senator



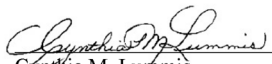
John Barrasso, M.D.
United States Senator



Joe Manchin III
United States Senator



Lisa Murkowski
United States Senator



Cynthia M. Lummis
United States Senator



Ted Cruz
United States Senator



Bill Cassidy, M.D.
United States Senator



John Kennedy
United States Senator

CC: The Honorable John Kerry
The Honorable Jennifer Granholm
The Honorable Michael Regan

**American Sportfishing Association
Izaak Walton League of America
National Wildlife Federation
Theodore Roosevelt Conservation Partnership
Trout Unlimited**

February 17, 2023

The Honorable Sam Graves, Chair
House Transportation and Infrastructure Committee
2165 Rayburn House Office Building
Washington, DC 20515-6256

The Honorable David Rouzer, Chair
House Transportation and Infrastructure Committee
Subcommittee on Water Resources and Environment
H2-585 Ford House Office Building
Washington, DC 20515-6256

The Honorable Rick Larsen, Ranking Member
House Transportation and Infrastructure Committee
2165 Rayburn House Office Building
Washington, DC 20515-6256

The Honorable Grace F. Napolitano, Ranking Member
House Transportation and Infrastructure Committee
Subcommittee on Water Resources and Environment
H2-585 Ford House Office Building
Washington, DC 20515-6256

Re: Letter for the Record, House Subcommittee on Water Resources and Environment, February 8, 2023 Hearing, "Stakeholder Perspectives on the Impacts of the Biden Administration's Water of the United States (WOTUS) Rule."

Chairman Graves, Ranking Member Larsen, Subcommittee Chairman Rouzer, and
Subcommittee Ranking Member Napolitano:

The below-signed members of the hunting and fishing community submit this letter for the record in connection with your hearing on stakeholders' perspectives on the Clean Water Act and its implementation by the U.S. EPA ("EPA") and U.S. Army Corps of Engineers ("USACE"), specifically the agencies' recent publication of their "Revised Definition of 'Waters of the United States'" rule ("the Revised Definition Rule").

Our members and supporters live and work across the country, spanning urban and rural areas, and they include small business owners, farmers, ranchers, and many other diverse livelihoods. Our members have in common personal connections with their nearby streams and rivers. They care deeply about the health of the nation's waterways and our responsibility to steward water resources for future generations.

Our members have supported the revised "Waters of the United States" definition because it meets the purpose of the Clean Water Act, which is to make our waters healthy, fishable, and

swimmable. The Revised Definition Rule is rooted in sound science and ensures protection of small streams and wetlands that provide clean water not just for fisheries but also for farmers, businesses, and communities. Hunters and anglers have been consistent defenders of the Clean Water Act, and we write today in support of the Revised Definition Rule.

1. The Revised Definition Rule reflects approaches under the Reagan and Bush II Administrations.

The Revised Definition Rule is a return to approaches for EPA and USACE used prior to the 2015 Obama rule. The agencies' rule limits the application of a 1986 Reagan-era interpretation with an approach almost identical to the 2008 guidance issued under the President George W. Bush Administration, which has been the basis for agency decisions for most of the past 15 years.

Although narrower than the 2015 Clean Water Rule, the Revised Definition Rule is well within the limits identified in Supreme Court precedent, relies on solid science, and draws on the agencies' experience and technical expertise. The agencies have long made site-specific jurisdictional determinations under the Clean Water Act, under both Republican and Democratic administrations. The Revised Definition Rule restores the long-standing requirement to obtain a 404 Permit for disturbance to many headwater streams and wetlands under the case-by-case agency analysis that had been reversed by the 2020 Navigable Waters Protection Rule.

2. Farmers and Ranchers have clarity and certainty under the Revised Definition Rule.

Routine farming and ranching activities are protected from permitting under the Revised Definition Rule. Because the Clean Water Act itself [exempts from permitting](#) routine, ongoing farming and ranching activities, these important economic activities are protected under the Revised Definition Rule. Farming, ranching, and forestry activities such as plowing, cultivating, minor drainage, and harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices are all exempt from 404 permitting under Section 404(f)(1)(A) of the Clean Water Act.¹ The Revised Definition Rule recognizes that American agriculture fulfills a vitally important public need and ensures that the agricultural exemptions are appropriately implemented.

¹ Memorandum: Clean Water Act Section 404 Regulatory Program and Agricultural Activities, United States Environmental Protection Agency and United States Department of the Army, (May 3, 1990), available at: <https://www.epa.gov/cwa-404/memorandum-clean-water-act-section-404-regulatory-program-and-agricultural-activities> (last visited on February 7, 2023).

3. The Revised Definition Rule protects sustainable economic activity.

With the adoption of the Revised Definition Rule, the agencies also restored the important economic driver of healthy waters that includes the outdoor recreation economy, anglers, hunters, boaters, swimmers, other outdoor enthusiasts, commercial fisheries and the fishing industry. For example, in 2021, an estimated 52.4 million Americans fished² and over 30 million Americans hunted.³ Nationwide, outdoor recreation accounts for 1.9 percent of gross domestic product, supporting the employment of 4.5 million Americans.⁴

Conclusion

The undersigned members of the hunting and fishing community commend the EPA and ACOE for taking a significant step forward with a revised definition that is in line with the objectives of the Clean Water Act and is based on a compelling scientific and technical record. We submit this written testimony for the record in support of the Revised Definition Rule and urge the Subcommittee to ensure that accurate information about the Rule is conveyed in the public discourse of the Rule, particularly about the Rule's clear protections for America's farmers and ranchers.

Sincerely,

American Sportfishing Association
Izaak Walton League of America
National Wildlife Federation
Theodore Roosevelt Conservation Partnership
Trout Unlimited

² Recreational Boating and Fishing Federation, <https://www.takemefishing.org/getmedia/155fcbd1-716a-41e5-ad5b-1450b76b9162/2022-Special-Report-on-Fishing.pdf> (accessed on February 17, 2023).

³ Council to Advance Hunting and Shooting Sports, <https://cahss.org/our-research/2022-special-report-on-hunting-and-the-shooting-sports> (accessed on February 17, 2023).

⁴ Outdoor Recreation Roundtable, <https://recreationroundtable.org/economic-impact/> (accessed on February 17, 2023).



Kate Miller
Director of Government Affairs

February 8, 2023

The Honorable Sam Graves, Chair
House Transportation and Infrastructure Committee
2165 Rayburn House Office Building
Washington, DC 20515-6256

The Honorable David Rouzer, Chair
House Transportation and Infrastructure Committee
Subcommittee on Water Resources and Environment
H2-585 Ford House Office Building
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The Honorable Rick Larsen, Ranking Member
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The Honorable Grace F. Napolitano, Ranking Member
House Transportation and Infrastructure Committee
Subcommittee on Water Resources and Environment
H2-585 Ford House Office Building
Washington, DC 20515-6256

Re: Letter for the Record, House Subcommittee on Water Resources and Environment, February 8, 2023 Hearing, "Stakeholder Perspectives on the Impacts of the Biden Administration's Water of the United States (WOTUS) Rule."

Chairman Graves, Ranking Member Larsen, Subcommittee Chairman Rouzer, and Subcommittee Ranking Member Napolitano:

Trout Unlimited ("TU") submits this letter for the record in connection with your hearing on stakeholders' perspectives on the Clean Water Act and its implementation by the U.S. EPA ("EPA") and U.S. Army Corps of Engineers ("USACE"), specifically the agencies' recent publication of their "Revised Definition of 'Waters of the United States'" rule ("the Revised Definition Rule").

TU has more than 350,000 members and supporters in 380 chapters and 36 state councils across America. Our mission is to bring together diverse interests to care for and recover rivers and streams so our children can experience the joy of wild and native trout and salmon. Our members cherish their personal connections with their nearby streams and rivers. They care deeply about the health of the nation's waterways and our responsibility to steward water resources for future generations.

TU supported the revised "Waters of the United States" definition because it meets the purpose of the Clean Water Act, which is to make our waters healthy, fishable, and swimmable. The revised definition is rooted in sound science and ensures protection of small streams and wetlands that provide clean water not just for trout and salmon fisheries but also for farmers, businesses, and communities. TU has

A mission to bring together diverse interests to care for and recover rivers and streams so our children can experience the joy of wild and native trout and salmon.
National Office: 1777 N Kent St., Suite 100, Arlington, VA 22209
(703) 284-9426 | kate.miller@tu.org | www.tu.org

been a leader in defending the Clean Water Act, and we write today in support of the Revised Definition Rule.

1. The Revised Definition Rule is a return to the approach under the Reagan and Bush Administrations.

The Revised Definition Rule is a return to a familiar approach for EPA and USACE. The agencies' rule returns to the regulatory approach that dates to President Reagan's administration, updated to reflect limits the U.S. Supreme Court has placed on federal jurisdiction during the intervening 36 years. President George H.W. Bush presided over implementation of a similar agency rule. The agencies' Revised Definition Rule also tracks the 2008 guidance issued under the President George W. Bush Administration, which has been the basis for agency decisions for most of the past 15 years.

Although narrower than the 2015 Clean Water Rule, the Revised Definition Rule is well within the limits identified in Supreme Court precedent, relies on the best-available science, and draws on the agencies' experience and technical expertise. The agencies have long made site-specific jurisdictional determinations under the Clean Water Act, under both Republican and Democratic administrations.

Because the Clean Water Act itself [exempts from permitting](#) routine, ongoing farming and ranching activities, these important economic activities are protected under the Revised Definition Rule. Farming, ranching, and forestry activities such as plowing, cultivating, minor drainage, and harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices are all exempt from 404 permitting under Section 404(f)(1)(A) of the Clean Water Act.¹ The Revised Definition Rule recognizes that American agriculture fulfills a vitally important public need and ensures that the agricultural exemptions are appropriately implemented.

2. The Revised Definition Rule corrects the deficiencies of the 2020 Navigable Waters Protection Rule.

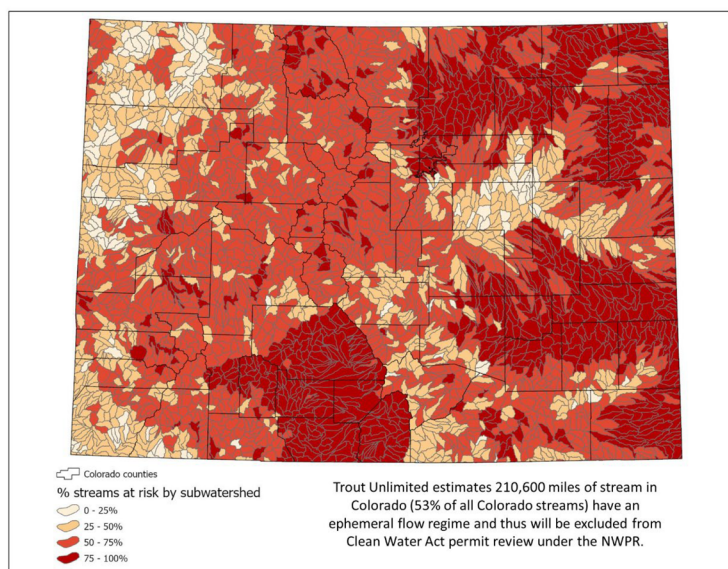
Over the past two years, [TU scientists have documented](#) how drafters of the 2020 Navigable Waters Protection Rule failed to assess its potentially devastating impacts on "ephemeral" streams, which are critical tributaries of larger streams – and which a TU-led peer-reviewed publication estimated comprise 48% of stream channels by length in the coterminous U.S.². Trout Unlimited, which filed amicus briefs in two court challenges to the rule, also recently examined the EPA's [Jurisdictional Determinations \(JDs\) database](#), to estimate the loss of Clean Water Act protection under the 2020 Navigable Waters Protection Rule. Based on previous jurisdictional determinations, we conservatively estimated that approximately 2.4 million stream miles, 23 percent of stream channels by length in the conterminous U.S., would lose the protection of jurisdictional consideration under the 2020 Navigable Waters

¹ Memorandum: Clean Water Act Section 404 Regulatory Program and Agricultural Activities, United States Environmental Protection Agency and United States Department of the Army, (May 3, 1990), available at: <https://www.epa.gov/cwa-404/memorandum-clean-water-act-section-404-regulatory-program-and-agricultural-activities> (last visited on February 7, 2023).

² K. Fesenmyer et al. *Large portion of USA streams lose protection with new interpretation of Clean Water Act*. *Freshwater Science* 40(1) (2021), attached as Ex. 1.

Protection Rule.³ This percentage is much higher in certain regions and watersheds, such as the more arid landscapes of the Southwestern United States.⁴

Below is a map showing the percentage of ephemeral streams by watershed, based on TU research, indicating that that over half of Colorado's stream miles are ephemeral, and therefore categorically excluded even from consideration for Clean Water Act jurisdiction by the 2020 Navigable Waters Protection Rule.



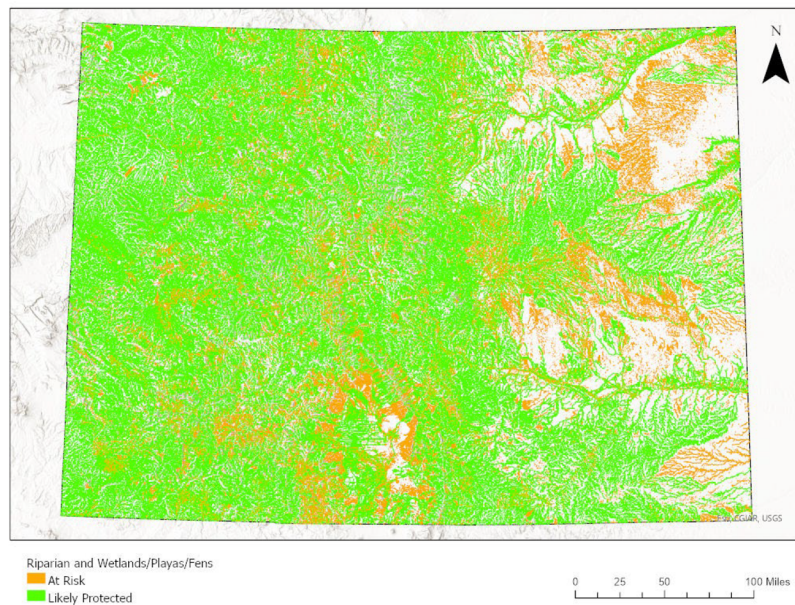
The 2020 Rule also categorically excluded geographically isolated, non-floodplain wetlands from Clean Water Act protection, along with wetlands that may be adjacent to navigable waters and their tributaries, but do not directly abut those waters, and do not have a continual surface water connection to them. Non-floodplain wetlands alone in Colorado cover an estimated 449,428 acres.⁵ This constitutes approximately 22 percent of the state's remaining wetland acres that would have been categorically excluded by the 2020 Rule. Half of Colorado's wetlands have already been lost to human

³ K. Fesenmyer et al. *Large portion of USA streams lose protection with new interpretation of Clean Water Act*. *Freshwater Science* 40(1) (2021), attached as Ex. 1.

⁴ L.R. Levick et al, *The ecological and hydrological significance of ephemeral and intermittent streams in the arid and semi-arid American Southwest*, EPA & USDA/ARS Southwest Watershed Research Center, EPA/600/R-08/134, ARS/233046 (2008). (Levick et al (2008)) (AR 0037).

⁵ C.R. Lane and E. D'Amico, *Identification of putative geographically isolated wetlands of the conterminous United States*, 52 J. Am. Water Resources Association 705 (2016) (AR 11724).

activity. See below map of Colorado's wetlands that would have been at-risk under the 2020 Navigable Waters Protection Rule.



Those wetlands that remain have an outsized importance for fish and wildlife in the state. While wetlands occupy only 2 percent of the state's land, they provide habitat for 75 percent of the state's species, including at risk species.⁶ What is more, many of these now vulnerable wetlands are the rare, ancient groundwater-fed fens in Colorado's mountains, a preservation priority of Region 6 of the U.S. Fish and Wildlife Service (USFWS) since 1999.⁷ The USFWS explains that fens take thousands of years to develop, and essentially are irreplaceable. Fens also perform important hydrological and water quality functions. For example, rare native cutthroat trout often benefit from the water-cleansing action of fens in headwaters of streams. They also often possess unique biotic assemblages. For all these reasons, the USFWS mitigation goal for Colorado's mountain fens is *no loss of existing habitat value*. In other words, because of the irreplaceability of the type of habitat, every reasonable effort should be made to avoid impacting them. However, the 2020 Rule would have categorically excluded Colorado's mountain fens from Clean Water Act jurisdiction and permitting requirements.

⁶ Colorado Parks and Wildlife, <https://cpw.state.co.us/aboutus/Pages/Wetlands.aspx#:~:text=Why%20should%20you%20care%3F,lost%20half%20of%20its%20wetlands>.

⁷ US FWS Region 6, <https://www.fws.gov/mountain-prairie/es/fen/FWSRegion6FenPolicy1999.pdf>

Taking into account both isolated, non-floodplain wetlands and the various categories of floodplain wetlands that do not abut or have a clear surface water connection to perennial and intermittent streams, recent geospatial modeling estimates indicate that tens of millions of the nation's remaining wetlands could have lost Clean Water Act protections due to the 2020 Rule's insistence upon evidence of a surface water connection to a tributary in a "typical year."⁸ The Revised Definition Rule's reversal of the 2020 Rule's roll-back of wetland jurisdiction is especially important at a time when climate change is driving long-term aridification of the Colorado River Basin.⁹ Given that reality, scientists began realizing more than a decade ago that comparing historic conditions to current or future ones is increasingly unreliable.¹⁰

3. The Revised Definition Rule protects sizable, sustainable economic activity.

With the adoption of the Revised Definition Rule, the agencies also restored the important economic driver of healthy waters that includes the outdoor recreation economy, anglers, hunters, boaters, swimmers, other outdoor enthusiasts, commercial fisheries and the fishing industry. For example, as of 2020, an estimated 1.1 million people fished and 363,000 went hunting in Colorado,¹¹ which delivered \$3.28 billion to the state's economy.¹² In Colorado, recreation and tourism accounted for twice the amount of private earnings as extractive industries and employed more than five times as many people in 2010.¹³

Conclusion

TU commended the EPA and ACOE for taking a significant step forward with a revised definition that is in line with the objectives of the Clean Water Act and is based on a compelling scientific and technical record. TU submits this written testimony for the record in support of the Revised Definition Rule and urges the Subcommittee to ensure that accurate information about the Rule is conveyed in the public discourse of the Rule, particularly about the Rule's clear protections for America's farmers and ranchers.

Thank you for considering our views.

Sincerely,



⁸ U.S. Fish and Wildlife Service, "Status and Trends of Wetlands in the Conterminous United States 2004-2009," at 16, 37 (2009), available [here](#).

⁹ Overpeck and Udall, <https://www.pnas.org/content/pnas/117/22/11856.full.pdf>

¹⁰ Stationarity is dead, <https://science.sciencemag.org/content/319/5863/573>.

¹¹ Business for Water Stewardship, <https://businessforwater.org/wp-content/uploads/2020/06/Southwick-Technical-report-2020.pdf>

¹² Colorado Parks & Wildlife, <https://cpw.state.co.us/Documents/Trails/SCORP/2017ColoradoOutdoorRecEconomy.pdf>

¹³ Benjamin Taber, *Recreation in the Colorado River Basin: Is America's Playground Under Threat?*, 2012 Colorado College State of the Rockies Report Card, at Fig's 2 and 3, accessible from: <https://www.coloradocollege.edu/dotAsset/c1d0b548-4350-4be7-b0a5-8de6692b973b.pdf> (accessed on May 17, 2021).



Kate Miller
Director of Government Affairs

February 28, 2023

Re: Support strong Clean Water Act protections; Oppose H.J.Res.27 and H.R.1152.

On behalf of Trout Unlimited, I urge you to oppose two measures included in today's Committee markup:

H.J. Res. 27, the Congressional Review Act (CRA) joint resolution of disapproval targeting the Revised Definition of the "Waters of the United States" rule (the Revised Definition Rule):

H.J. Res. 27 would invalidate the Biden administration's recently finalized regulation, which ensures protection of small streams and wetlands that are critical not just for trout and salmon fisheries but also for healthy watersheds and clean water for downstream businesses and communities. Trout Unlimited recently wrote to this Committee outlining our support for the Revised Definition Rule and against legislative action to invalidate that Rule (attached). We urge you to reject H.J.Res.27 in today's Committee markup.

H.R. 1152, the Water Quality Certification & Energy Project Improvement Act of 2023:

We also urge you to oppose H.R. 1152, the Water Quality Certification and Energy Project Improvement Act. This legislation would undermine the authority of states and tribes to protect water resources under Section 401 of the Clean Water Act.

Effective implementation of the Clean Water Act is vital to TU's mission, and effective use of Section 401 by the states and Tribes is critical to a fully functioning Clean Water Act. Section 401 certifications are required for any development that will result in a discharge into waters of the United States, which includes a myriad of categories of development - from bridge and culvert replacements to energy development such as hydropower, pipelines and oil and gas operations - all of which our members have a great deal of concern about getting right in terms of potential impacts to fishery resources. Often, 401 permitting authority is the best and only opportunity to ensure that such projects will be permitted and designed in a manner to avoid impairment to state water quality and to ensure any impact is adequately mitigated.

We urge you to oppose the H.R. 1152 and any other efforts to weaken state and tribal authority under section 401 of the Clean Water Act.

Thank you for considering our views.

Sincerely,

A mission to conserve, protect, & restore North America's coldwater fisheries and their watersheds.

National Office: 1777 N Kent St., Suite 100, Arlington, VA 22209

(703) 284-9426 | kate.miller@tu.org | www.tu.org

 AMERICAN FISHERIES SOCIETY

AFS URGES CONGRESS TO KEEP 2023 WATERS OF THE US RULE IN PLACE

March 10, 2023 / Policy News, Water Quality, WOTUS

March 9, 2023

Chairman Tom Carper
U.S. Senate
Committee on Environment and Public Works
410 Dirksen Senate Office Building
Washington, DC 20510

Re: 2023 Biden Administration Waters of the U.S. Rule

Dear Chairman Carper:

On behalf of the American Fisheries Society (AFS), we write today to urge you to vote against S.J. Res. 7, the joint resolution of disapproval seeking to invalidate the Biden Administration's Waters of the United States (WOTUS) rule (2023 Rule) published in the *Federal Register* on January 18, 2023.

AFS has long supported a science-based definition of WOTUS. AFS fully supported the 2015 Clean Water Rule (2015 CWR) because it was informed by the best scientific information available and based protections on the many physical, chemical, and biological connections of headwaters to downstream navigable waters. We are on record in opposition to the 2020 Navigable Waters Protection (2020 NWPR) rule because it removed federal Clean Water Act protections for millions of miles of headwater streams and millions of acres of wetlands. The 2023 Rule is a vast improvement over the 2020 NWPR and represents a step forward in protecting our nation's waters and the critical ecosystem services they provide for people and the environment. Invalidating the 2023 rule in an attempt to return to the very limited protections in the 2020 NWPR threatens highly valued fish, fisheries, ecosystem services, and the communities that rely on them.

AFS is the world's oldest and largest professional society of fisheries and aquatic scientists and managers. The Society seeks to improve the conservation and sustainability of fisheries and aquatic ecosystems by advancing science and promoting the development of fisheries professionals. We greatly value the country's clean waters and healthy aquatic ecosystems as they are critical to maintaining fisheries and other critical ecosystem services such as supporting biodiversity, flood control, and carbon storage.

The mandate of the Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of the nation's waters. This can only be achieved if the definition of WOTUS is grounded in sound science that recognizes the multiple dimensions of waterbody connectivity: physical/hydrologic, chemical, and biological.

AFS has long supported a science-based definition of WOTUS. The 2023 Rule seeks to balance the science with efficiency and provides additional clarity for implementation of the rule. We are on record in opposition to the 2020 Navigable Waters Protection (2020 NWPR) rule. The limited protections it provides for our nation's waters threaten highly valued fish, fisheries, ecosystem services, and the communities that rely on them (Colvin et al. 2019). The 2020 NWPR removed protections for millions of miles of headwater streams and millions of acres of wetlands and would have resulted in severe ecological and economic losses and caused irreparable cultural and social damage (Cohen et al. 2016; Fesenmyer et al. 2021; Creed et al. 2017; Sullivan Declaration 2020.)

More than a half century of scientific research demonstrates that the integrity of "traditionally navigable" waters fundamentally depends on tributaries – including headwater ephemeral, intermittent, and perennial streams – as well as many associated lakes, wetlands, and off-channel habitats (USEPA, 2015). Aquatic ecosystems depend upon transfers of chemical components, organisms, sediment, and organic materials among waterbodies to support the life in and around their shores. Without the safeguards of the Clean Water Act for these streams and wetlands, the ability of these waters to convey nutrients, provide pathways for migrating organisms such as fish and wildlife, and serve as a drainage and storage system for floodwaters is severely undermined.

AFS fully supported the 2015 Clean Water Rule (2015 CWR) because it was based on the demonstrated importance of the many physical, chemical, and biological connections of headwaters to the ecological condition of downstream and downslope navigable waters and their biota. The 2015 CWR was informed by the best scientific information available as set forth in the comprehensive scientific report that accompanied the rule, i.e., the "Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence" (herein the "Connectivity Report" but described in the 2015 CWR as the "Science Report"). The Connectivity Report synthesized over 1,200 peer-reviewed publications and provided the technical basis for the 2015 CWR. In the intervening years, interdisciplinary scientific efforts have further demonstrated the importance of protecting non-permanent waterbodies, including intermittent and ephemeral headwater streams and wetlands that are hydrologically and biologically connected to navigable waters (e.g., Cohen et al. 2016, Rains, et al. 2016, Fritz et al. 2018, Harvey et al. 2018, Leibowitz et al. 2018, Schofield et al. 2018, Colvin et al. 2019).

In contrast, the 2020 NWPR was not based on current science and reversed decades of protections that were put in place to ensure clean water would be available for future generations (Sullivan et al. 2019, Sullivan et al. 2020). The 2020 NWPR rule focused only on hydrological surface connections to establish jurisdiction. It ignored many key biological and chemical connections that are critical for fully functioning aquatic ecosystems. It only recognized a limited subset of connectivity conditions, and it relied on flow permanence and physical abutment as measures of jurisdiction. Hence, it arbitrarily ignored other ecologically critical aspects of physical connectivity such as bed, banks, and high-water marks, and chemical, biological and ecological connectivity that were incorporated in the 2015 CWR.

The 2020 NWPR eliminated protections for a staggering number of headwater streams, which are broadly defined as portions of a river basin that contribute to the development and maintenance of downstream navigable waters including rivers, lakes, and oceans. Headwaters include wetlands outside of floodplains and small streams with permanent flow, intermittent flow, and ephemeral flows. Headwaters affect downstream and downslope streams and wetlands; that is, they are hydrologically, chemically, physically, biologically and ecologically connected to what happens downstream.

Headwaters are key to the sustainability of fish stocks in both upstream and downstream waters and should be protected (Colvin et al., 2019). The loss of Clean Water Act protections for headwaters would diminish ecosystem services provided by those waters, increase threats to imperiled species, impair commercial and recreational fisheries in both fresh and salt waters, and degrade fishes of great cultural value to Native Americans and the recreating public.

Climate change will only exacerbate those losses. Aquatic resources in many states, particularly in the central and western U.S., are already stressed by overuse of water and extreme weather patterns. The reduction in groundwater has greatly impaired flow regimes, causing many streams to shift from perennial to intermittent or even ephemeral (Colvin et al., 2019). Under the 2020 NWPR rule, streams and playas may no longer be protected that were historically perennial but now have impaired flows because of groundwater depletion. Whereas water rights and use largely fall outside the jurisdiction of the Clean Water Act, the negative impacts of unregulated dredge and fill within those streams and playas would amplify the current stresses faced by aquatic ecosystems and further reduce the potential for habitat recovery. Such cumulative impacts increase the likelihood of future listings and extinctions of fish, amphibians and waterfowl, thereby jeopardizing the ecological integrity and function of our waters.

In addition to the loss of protection for headwaters, the 2020 NWPR eliminated protections for wetlands that do not abut or have a direct hydrologic surface connection to other WOTUS. Wetlands provide essential ecosystem services such as protection of drinking water quantity and quality, provision of floodwater and carbon storage, storm damage mitigation, resilience against sea-level rise and drought, and essential fish, shellfish, waterfowl, and wildlife habitat. Wetland loss in some regions of the U.S. already approaches or exceeds 85 percent. As documented in the Connectivity Report, wetlands that neighbor other WOTUS, but are not necessarily abutting or having a direct hydrologic surface connection in a typical year, often exhibit functional connections with other WOTUS, and should be protected. These waters equal the size of West Virginia and the loss of ecosystem services they provide would be staggering.

The 2023 Rule appropriately recognizes that science is complex and cannot be ignored for the convenience of administering the Clean Water Act. It addresses the major flaws with the 2020 NWPR, seeks to balance the science with efficiency, and provides additional clarity for implementation. It considers the science as established in the Connectivity Report as well as more recent research on waterbody connectivity. Further, the 2023 Rule takes a first step at addressing climate change in the context of federal water protection. Notably, the 2023 Rule states that science does not provide bright lines relative to defining a specific distance required for adjacency, and clearly outlines those waters that constitute exclusions from jurisdiction. The 2023 Rule defines the geographic scope (i.e., in the region) for purposes of significant nexus analysis. It also clarifies that wetland complexes (i.e. two or more individual wetland areas that are functionally related and geographically clustered) are to be considered in the aggregate.

To more fully protect aquatic resources, we recommend that future rule revisions provide protections to ensure chemical and biological connectivity as well as groundwater protections.

In closing, we urge you to uphold the 2023 Rule to safeguard highly valued fish, fisheries, ecosystem services, and the communities that rely on them. We are willing to assist should you need additional information or consultation.

Sincerely,

Douglas J. Austen, Ph.D.
Executive Director





EPA IRA Power Sector Impacts

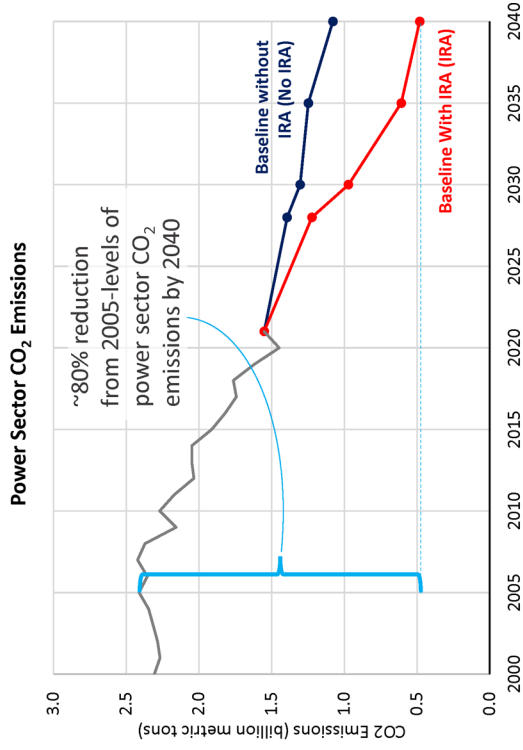
**Future Generation: Exploring the New Baseline for
Electricity in the Presence of the Inflation Reduction Act**

February 15, 2023

Cara Marcy

Introduction

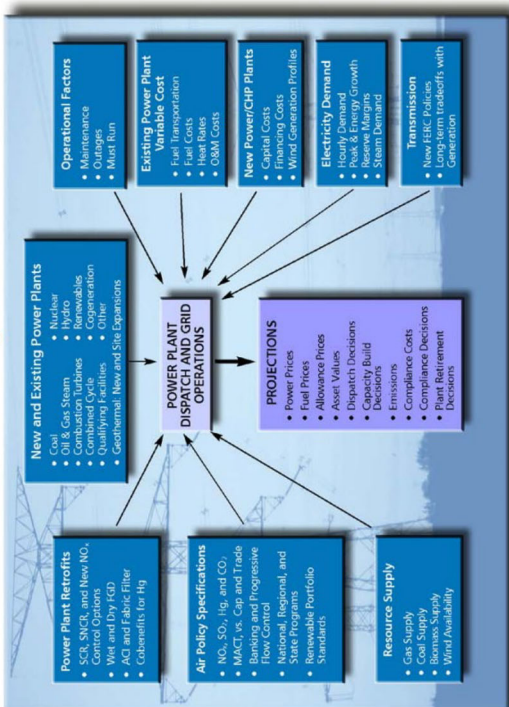
- IRA is expected to greatly drive down power sector CO₂ emission in the coming decades
- EPA modeling of IRA impacts show major growth in clean and renewable technologies, driven by tax credit incentives, resulting in decreases in fossil fuel use
- Modeling results presented today are used to establish EPA's power sector baseline and are useful in informing EPA regulatory actions
- Ongoing analyses examine use of more advanced technology assumptions



Note: Results from the Baseline with IRA are pending publication.
Results from the Baseline without IRA can be found here:
www.epa.gov/power-sector-modeling/pre-ira-2022-reference-case

Integrated Planning Model Framework IPM® Modeling Structure

- IPM is a long-term dynamic linear programming model of the U.S. power sector that aims to meet energy and peak demand at lowest cost over the projection period subject to constraints including:
 - Transmission constraints
 - Fuel markets
 - Resource supply
 - Emissions limits
- IPM is populated with information related to operating units, planned builds, and planned retirements and is able to:
 - add new capacity,
 - retrofit or retire existing capacity, and
 - alter dispatch in order to meet demand over the projection period at the lowest cost



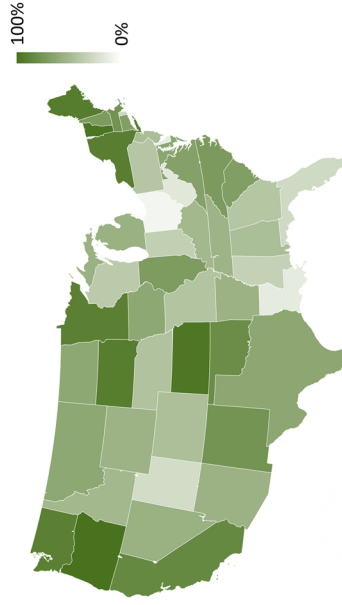
Note: Documentation for EPA's Power Sector Modeling Platform v6 using IPM can be found here:
www.epa.gov/power-sector-modeling/documentation-pre-ira-2022-reference-case

Recent Updates to IPM

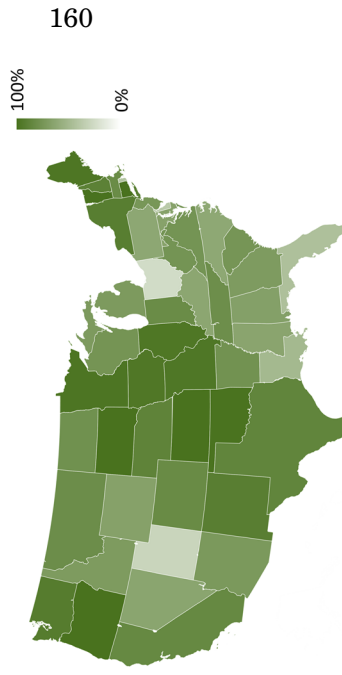
- IRA provisions now modeled include:
 - Clean Electricity Investment and Production Tax Credits (48E, 45Y)
 - Advanced Manufacturing Production Credit (45X)
 - Carbon Capture & Sequestration Tax Credit (45Q)
 - Existing Nuclear Tax Credit (45U)
 - Clean Hydrogen Fuels (45V)
- Other model updates include:
 - Updated plant file with announced retirements for coal
 - Updated natural gas supply curves
 - Added incremental demand (above AEO projections) from electrification expected in response to previously finalized vehicle standards
- The baseline scenario in this presentation does not include non-power-sector impacts from IRA, e.g., demand-side impacts

Clean Electricity Generation

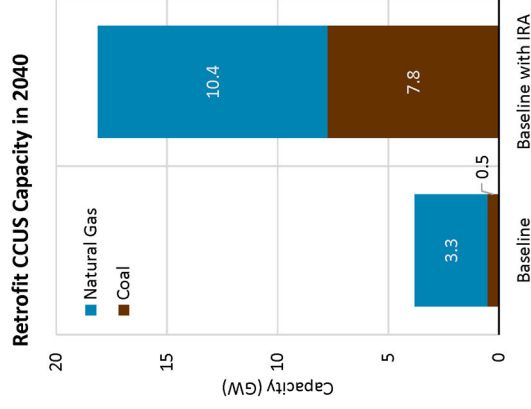
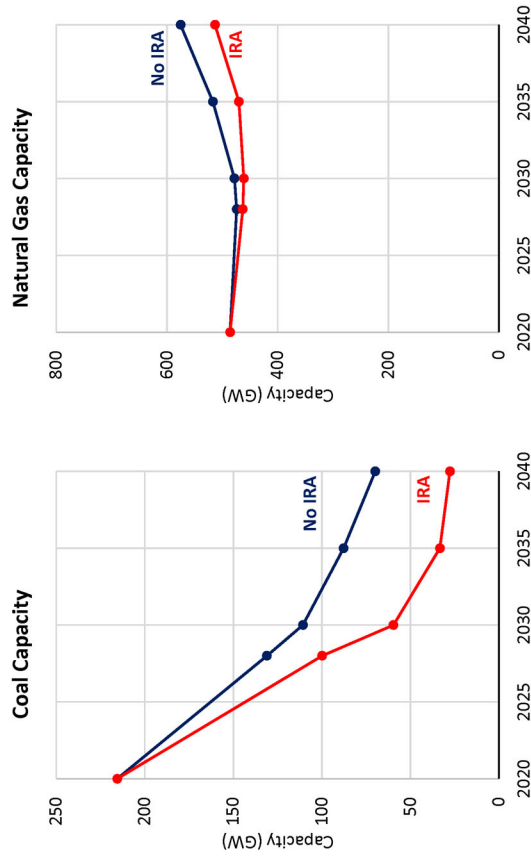
Clean Electricity Share of Generation by
State in 2040 in Baseline without IRA



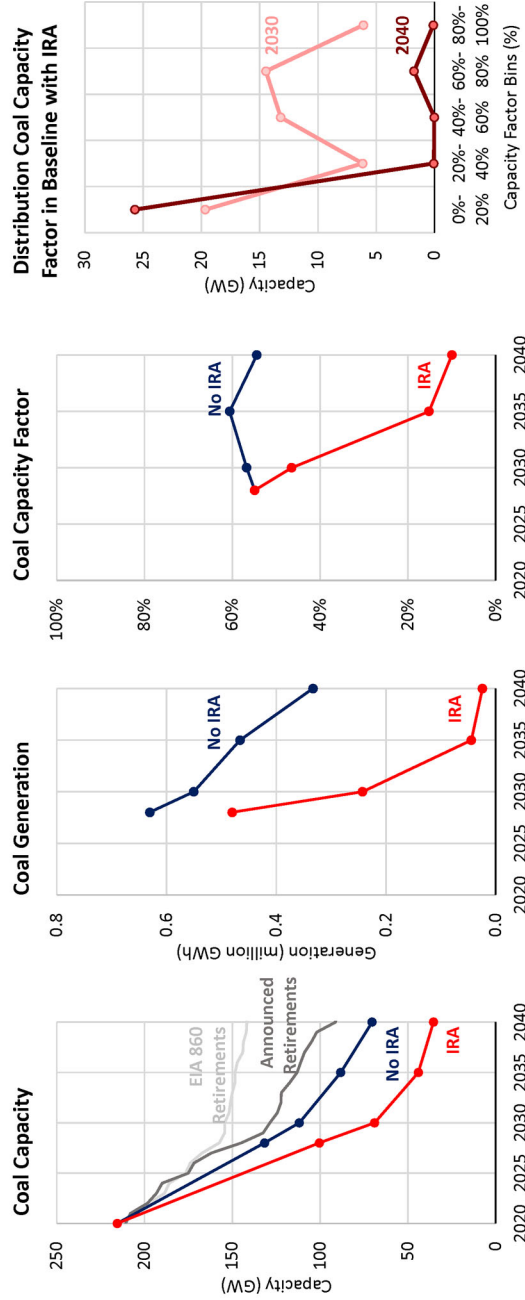
Clean Electricity Share of Generation by
State in 2040 in Baseline with IRA



Coal and Natural Gas Capacity



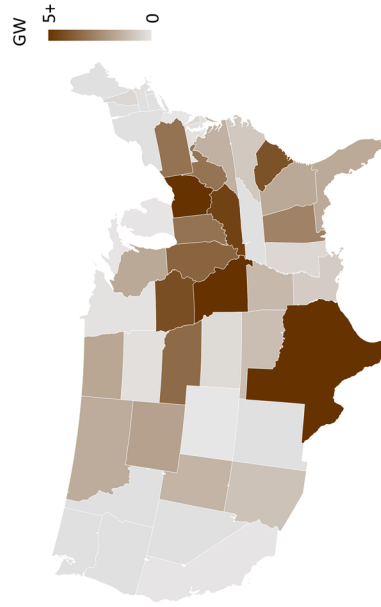
Coal Deeper Dive



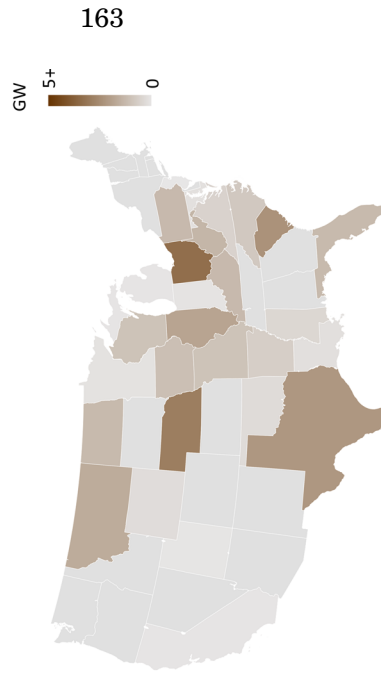
Note: EPA's National Electric Energy Data System (NEEDS) can be found here:
www.epa.gov/power-sector-modeling/national-electric-energy-data-system-needs

Coal Regional Results

**Operating Coal Capacity by State in
2040 in Baseline without IRA**

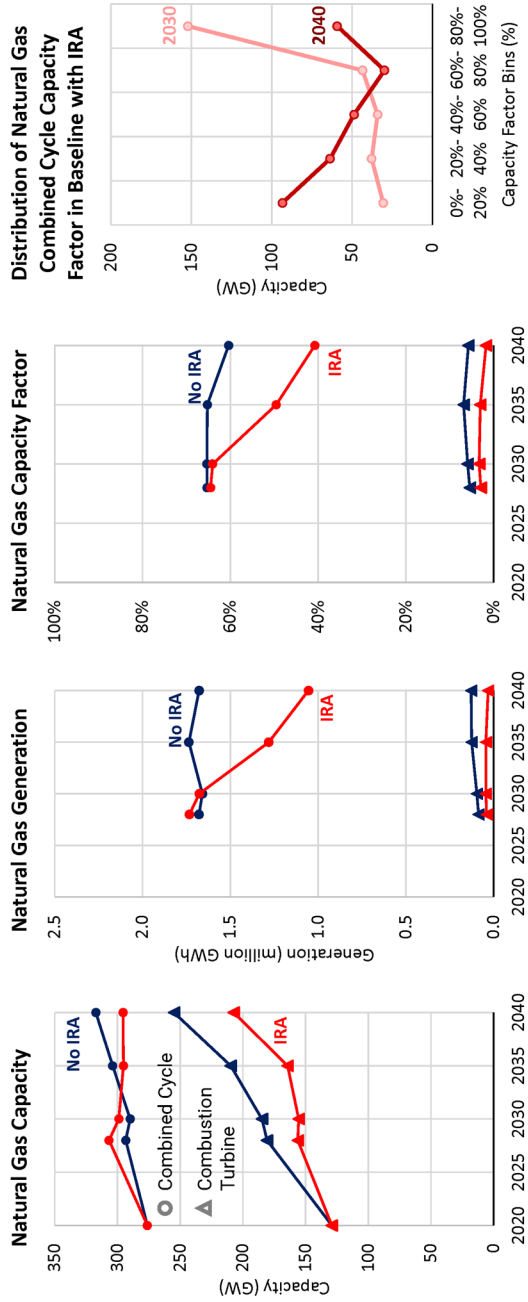


**Operating Coal Capacity by State in
2040 in Baseline with IRA**



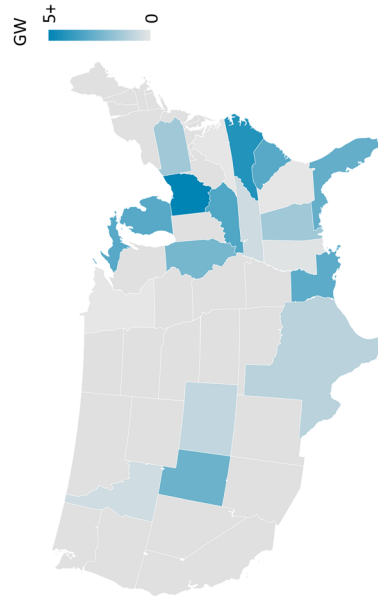
163

Natural Gas Deeper Dive

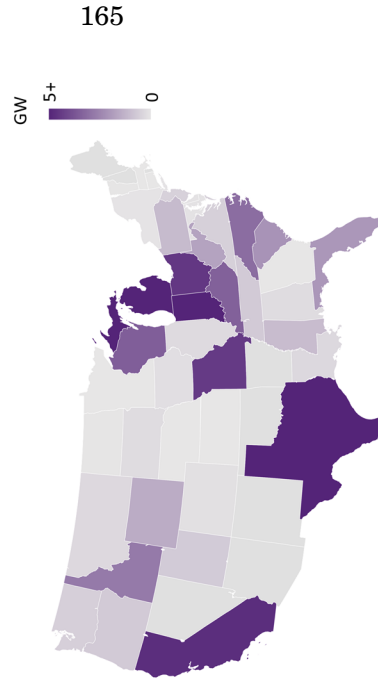


Natural Gas Regional Results

**New Natural Gas Combined Cycle Capacity
by State in 2040 in Baseline with IRA**



**New Natural Gas Combustion Turbine Capacity
by State in 2040 in Baseline with IRA**



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Conclusions

- Initial modeling results show an 80% reduction from 2005 levels of power sector CO₂ emissions by 2040, compared to a 55% reduction pre-IRA
- Tax credits for renewables, storage, nuclear, and CCS lead to increases in generation from low and zero emitting generation resources
- These lower emitting technologies reduce the need for fossil fuel resources, both in terms of capacity and in generation
- EPA will continue assessing the potential role of advanced technology assumptions in modeling potential impacts of the IRA, including:
 - Rapid electrification growth
 - Improved RE technology manufacturing and costs
 - Improved energy storage costs and durations
 - Delivered hydrogen fuel prices