Environmental Protection Agency
2019 Hearing Fact Sheets
Finals as of 7.18.18

Table of Contents

Contents

[TOC \o "1-3" \h \z \u]

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FY 2019 CONGRESSIONAL HEARING
ELIMINATED PROGRAM ENVIRONMENTAL EDUCATION

QUESTION: How will EPA continue to find ways to streamline education activities and leverage funding outside the Agency for environmental stewardship activities?

ANSWER:

- EPA will continue to find ways to streamline education activities and leverage funding outside the Agency using EPA's new LEAN management system.
- EPA will utilize existing cooperative agreements and explore opportunities for cooperative federalism at the state and local level.
- In FY 2019, EPA proposes to eliminate the Environmental Education program.
- The FY 2018 Omnibus budget funds this program at the FY 2017 Enacted level.

BACKGROUND:

- The program provides guidance and financial support to both rural and urban grassroots and nonprofit organization, local education institutions, universities, community colleges and state and local environmental agencies.
- The program administers the Presidential Environmental Education Awards Program.

RESOURCES:
(Dollars in Millions)

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$8.7M	11.1	$8.6M	11.1	$0.0M	0.0	-$8.7M	-11.1
Total	**$8.7M**	**11.1**	**$8.6M**	**11.1**	**$0.0M**	**0.0**	**-$8.7M**	**-11.1**

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FY 2019 CONGRESSIONAL HEARING
EMPLOYMENT ANALYSIS AND THE MURRAY ENERGY LAWSUIT

QUESTION: What is the status of Murray Energy's petition for a writ of certiorari to the U.S. Supreme Court of the Fourth Circuit's decision regarding EPA's employment analysis under Section 321(a) of the Clean Air Act?

ANSWER:

- The Supreme Court denied Murray Energy's petition on January 8, 2018.
- The Murray Energy case highlighted that environmental statutes require EPA to evaluate employment impacts, and that the Agency has significant discretion in deciding how to conduct the evaluations. While EPA has historically evaluated certain employment impacts, EPA is now committed to conducting even broader and more comprehensive analyses of the employment and distributional impacts of the Agency's actions.
- EPA is in the process of developing a program to better understand and address the employment and distributional impacts of the Agency's actions and plans to revise EPA's Economic Guidelines accordingly.
    - In EPA's recent report that identified initiatives to implement Executive Order 13783, the Agency confirmed its commitment to take the economic and job impacts of its regulations into account and to "conduct these evaluations consistent with the statutes."

BACKGROUND:

- On January 11, 2017, the District Court issued a final order in the Murray Energy lawsuit against the EPA concerning employment effects of the Clean Air Act. The final order required EPA to conduct new "evaluations of potential loss or shifts of employment," focusing on specific worker dislocations and facility- and community-specific assessments.
- The United States appealed the ruling by the District Court on several grounds, including that (1) Section 321(a) does not create a non-discretionary duty because it is not discrete and contains no date-certain deadline for performance; (2) Murray Energy has not demonstrated standing under Article III of the U.S. Constitution to sue (this requires demonstrating injury-in fact, causation, and redressability) and (3) the District Court overstepped its authority by requiring the EPA to take very specific actions in response to general language in the CAA. Some of the prescriptive actions ordered by the District Court (publicly predicting which manufacturing facilities might shut down) would put the EPA in an inappropriate role and potentially hurt struggling manufacturers.
- On June 29, 2017, the Fourth Circuit vacated the District Court ruling, stating that the duty to conduct employment evaluations described in Section 321(a) is not a non-discretionary duty that is judicially enforceable by a citizen suit. The law "imposes on the EPA a broad, open-ended statutory mandate," the judges concluded, noting a lack of deadlines or instructions on how EPA was to carry out the evaluations. "A court is ill-equipped to supervise this continuous, complex process." Murray Energy filed a petition for a writ of certiorari with the U.S. Supreme Court on September 27, 2017, and Cause of Action Institute and West Virginia, et al. filed amicus briefs in support of Murray's petition. The United States filed a response in opposition to Murray's petition on December 7, 2017.

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FY 2019 CONGRESSIONAL HEARING
EPA'S LEAN EFFORTS

QUESTION: What is the Agency doing with Lean?

ANSWER:

- EPA is developing and deploying a Lean Management System (LMS) that will establish measures for each work unit at the Agency that align with EPA's strategic plan measures:
    - Set targets for our work
    - Measure our results against the targets
    - Identify the gaps between our targets and our results
    - Act to close the gaps so we can better deliver on our mission.
- EPA's LMS will allow us to manage our work in ways that allow problems to be identified and addressed before they get worse.
- This management approach represents the beginning of a transformation at EPA that is unique among federal agencies, but has proven successful at many private corporations as well as a limited number of states.
- EPA is committed to engaging its employees throughout the process of implementing the LMS.
- EPA aims to have the LMS deployed in 80 percent of the Agency by September 30, 2020.

BACKGROUND:

- Conducted five-day Lean Process Improvement events on industrial NPDES permits, underground injection control permits, TSCA premanufacture notice final determinations, and procurement. Scheduled seven additional events to be completed by April 2018. EPA's strategic measures and Reform Plan priority areas are being managed as Lean problem-solving projects with monthly status updates submitted to the Assistant Deputy Administrator / Chief of Operations on one-page standardized forms.
- Guided EPA leaders across the Agency in the development of monthly measures that are now being tracked in a standardized format and submitted through a centralized system that allows visibility into each program and regional office. This will provide a path forward for the development of cascading measures at each lower level of the organization. The monthly measures are tracked against targets on standardized forms submitted monthly to the Assistant Deputy Administrator / Chief of Operations. Countermeasure plans are required for measures that are off target and serve as the primary content for monthly business reviews conducted by the 23 program and regional offices.
- Established a communications plan that includes an Intranet site providing key documents, recorded training, and additional tools and a weekly update in EPA's agency-wide email newsletter.
- Developed an agency-wide Lean training program with a deployment schedule that will result in 80% of EPA trained in the next two years. In addition, EPA held a two-day conference for the Agency's SES cadre that focused on the Agency's need for change and the path forward with the EPA Lean Management System. The Agency's political leadership participated in the conference, and several outside speakers provided guidance on leading change at EPA.

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FY 2019 CONGRESSIONAL HEARING
THE EXECUTIVE MANAGEMENT AND OPERATIONS PROGRAM PROJECT REDUCTIONS

QUESTION: How will the Agency manage with less resources in the Executive Management and Operations program project?

ANSWER:

- The Agency will focus on our core legal requirements, federal-only and national efforts, provide support to states in implementing environmental laws, and ease regulatory burden.
- EPA also will streamline the program by prioritizing activities in FY 2019.
- In FY 2019, EPA requests $39.4 million for the Executive Management and Operations program, a decrease of $7.3 million from the FY 2017 Enacted level.
- They FY 2018 Omnibus budget provides level funding for the Information Exchange program area in which the Executive Management and Operations program project resides.

BACKGROUND:

- Within this program, key functions include: setting the Agency's strategic goals and priorities; responding to Congressional requests for information; coordinating and providing outreach and liaising with state and local governments, agricultural and rural communities; and maintaining public information and communication with the press.
- In FY 2017, the Office of Congressional Relations managed over 700 letters from members of Congress and governors, received over 140 Freedom of Information Act requests, and prepared senior leadership for several hearings including the confirmation of Administrator Pruitt.
- The Office of Public Affairs generally responds to approximately 8,900 media inquiries annually, oversees the production of more than 300 videos annually, and manages more than 500,000 webpages on EPA's website.

RESOURCES:
(Dollars in Millions)

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$46.7M	309.4	$43.4M	309.4	$39.4M	235.6	-$7.3M	-73.8
Total	**$46.7M**	**309.4**	**$43.4M**	**309.4**	**$39.4M**	**235.6**	**-$7.3M**	**-73.8**

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INTEGRATED ENVIRONMENTAL STRATEGIES: BACK TO BASICS AGENDA

ISSUE/TOPIC: FY 2019 resources Integrated Environmental Strategies (IES) program to support the Administrator's Back to Basics Agenda.

BACKGROUND:

- The IES program supports locally-led, community-driven environmental protection strategies; work to streamline EPA's regulatory framework and permit processes; and cooperation with external partners to advance the agency's goals through increased efficiency.

- The proposed reductions to locally-led, community-driven assistance reduces our ability to meet the demand from communities. Over the past five years, we have worked on the ground in over 460 places. These efforts have, in turn, leveraged millions of dollars in public and private sector investments that improve environmental and human health outcomes.

- The EPA has initiated hundreds of Lean projects. Specific projects have slashed years from administrative delays, and current projects are engaging more state partners in eliminating waste from environmental programs.

- In FY 2019 the funding resources are reduced by $1.0M and 9.8FTE. In FY 2018 IES was funded at $10.5M and 55.8 FTE compared to $9.5M and 46.0 FTE.

TALKING POINTS:

- Cooperative Federalism: The program will build state and local government capacity to implement strategies that protect the environment.
- Engaging communities through technical assistance: Communities are asking for our help and we will continue to provide technical expertise and consulting resources that would be difficult and/or expensive for them to access on their own. We will also continue to provide assistance to communities with overburdened populations to address environmental justice challenges and conduct technical analysis, as needed, to better understand the impacts of the agency's actions on communities.
- Sector Strategies and Permit Streamlining: The program work on EPA's regulation and permit streamlining process. is critical to several presidential Executive Orders and memoranda, including "Streamlining Permitting and Reducing Regulatory Burdens for Domestic Manufacturing" and "Reducing Regulation and Controlling Regulatory Costs." The program's engagement with key industry sectors supports these efforts.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 Enacted v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$10.6M	55.8	$10.5M	55.8	$9.5M	46.0	-$1.0M	-9.8
Total	**$10.6M**	**55.8**	**$10.5M**	**55.8**	**$9.5M**	**46.0**	**-$1.0M**	**-9.8**

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FY 2019 CONGRESSIONAL HEARING
OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION

QUESTION: How will the changes in resources impact the performance of the Agency's statutory obligations under Section 15(k) of the Small Business Act, 15 U.S.C. § 644(k)?

ANSWER:

- To ensure compliance with Section 15(k), the Agency will prioritize the activities of the Office of Small and Disadvantaged Business Utilization (OSDBU) to focus on those duties and responsibilities specifically mandated by statute.
- The Agency will streamline the process for reviewing proposed EPA acquisitions to devote attention to those acquisitions that present more challenges for small business participation.
- The Agency is considering options to transfer the Disadvantaged Business Enterprise (DBE) Program to another office within EPA to dedicate resources to carrying out the Agency's statutory responsibilities and to implement the corrective action recommended in GAO Report, GAO-17-675, entitled: *Small Business Contracting: Actions Needed to Demonstrate and Better Review Compliance with Select Requirements for Small Business Advocates*.

BACKGROUND:

- EPA's OSDBU currently manages the Agency's Small Business Contracting program, the Disadvantaged Business Enterprise (DBE) program and the Asbestos and Small Business Ombudsman (ASBO) program.
- These programs advance the business, regulatory and environmental compliance concerns of small businesses, and help to build sustainable small businesses to support their important job creation role in the nation's economy.
- Based on the Agency's superior performance in carrying out these functions, for the last eight years EPA has received a Scorecard grade of "A" on the government-wide small business procurement scorecard administered by the U.S. Small Business Administration.
- In its August 2017 Report, GAO-17-675, the U.S. Government Accountability Office determined that the management of the DBE Program within OSDBU violates Section 15(k)(15) of the Small Business Act because it is not a specifically authorized OSDBU duty or responsibility under the Small Business Act.
- On October 25, 2017, Chairman Steve Knight of the House Committee on Small Business, Subcommittee on Contracting and Workforce sent a letter to EPA Administrator Scott Pruitt requesting information on actions EPA is taking to comply with Section 15(k)(15).

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$3.8M	12.8	$3.6	13.8	$2.0M	4.6	-$1.8M	-8.2
Total	**$3.8M**	**12.8**	**$3.6M**	**13.8**	**$2.0M**	**4.6**	**-$1.8M**	**-8.2**

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FY 2019 CONGRESSIONAL HEARING
PROTECTING CHILDREN'S HEALTH

QUESTION: How will children's environmental health be protected?

ANSWER:

- The program will continue to coordinate and advance the protection of children's environmental health throughout the EPA as a critical part of the Agency's mission to protect human health.
- In FY 2018, EPA is co-leading an interagency effort with the Department of Health and Human Services and other Federal partners to produce a *Federal Strategy to Reduce Childhood Lead Exposures and Eliminate Health Impacts* that will address many sources of children's exposure to lead, including lead in drinking water.
- EPA will continue to enhance the understanding of health care providers and the public about the important role environmental toxicants play in the development of asthma, attention deficit/hyperactivity disorder (ADHD), obesity, diabetes, cancer and other childhood illnesses that may set the trajectory of health throughout adult life.
- The FY 2019 Budget requests $2M and 6.9 FTE or a decrease of $4.5M from FY 2018 ACR level for the Children and Other Sensitive Populations Program.

BACKGROUND:

- Lead is among the most important pollutants that affect children. In FY 2019, reducing lead in children's environments will continue to be a priority for protecting children.
- EPA continues to support and enforce laws such as the Toxic Substances Control Act, Clean Air Act, Safe Drinking Water Act, Federal Insecticide, Fungicide, and Rodenticide Act, Comprehensive Environmental Response, Compensation, and Liability Act and the Food Quality Protection Act along with Agency policy, memorandum, and an executive order direct the Agency to protect children and other vulnerable life stages.
- The Office of Children's Health Protection (OCHP) continued to increase environmental health knowledge through streamlined activities related to the Children's Health program (e.g., working with the Pediatric Environmental Health Specialty Units (PEHSUs)) and health care providers on topics including prenatal and childhood exposures and health outcomes.
- Since 1997, EPA's Office of Research and Development (ORD) and the National Institute of Environmental Health Sciences (NIEHS) have jointly funded more than 40 highly competitive Children's Environmental Health and Disease Prevention Research Centers.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$6.3	19.2	$6.5	21.8	$2.0	6.9	-$4.3	-12.3
Total	**$6.3**	**19.2**	**$6.5**	**21.8**	**$2.0**	**6.9**	**-$4.3**	**-12.3**

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REGULATORY/ECONOMIC-MANAGEMENT AND ANALYSIS

ISSUE/TOPIC: New priorities for the Office of Policy's regulatory work in the FY 2019.

BACKGROUND:

- EPA is making quantifying employment impacts as a result of regulation a top priority. The judicial order from the Murray Energy vs. EPA lawsuit requires significant and continuous analysis of employment effects attributable to CAA regulations; other statutes have similar language and will need to be addressed. The EPA will implement a comprehensive employment assessment program, regardless of the outcome of this case.

- EPA will assess the impact of regulations on businesses, jobs, communities, government entities, and the economy to help identify and improve regulations that are overly burdensome, consistent with EO 13771, EO 13777, and EO 13783.

- EO 12866, EO 13777 and some statutes require benefit-cost analyses (e.g., drinking water regulations) to improve the net benefits of EPA programs. EPA is improving existing methods so that we can quantify costs and benefits that, until now, have remained outside the computed benefit cost assessment.

- In FY 2019, EPA will focus resources to implement regulatory policy priorities and to assess, review, and improve the Agency's regulations and economic tools, in accordance with new Executive Orders.

TALKING POINTS:

- EPA is committed to understanding and minimizing the impacts of agency actions on employment, job losses and the economy, and ensuring the best available science is used to make decisions.

- EPA will no longer emphasize "net" employment changes where we trade off manufacturing or mining jobs for so-called "green" jobs and only worry about the net change in jobs.

- EPA will treat job losses as an important distributional impact along with impacts to manufacturers and communities.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 Enacted v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$15.1 M	81.3	$15.0 M	81.3	$15.5 M	74.0	$0.5M	-7.3

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FY 2019 PRESS CONFERENCE & HEARINGS
CALIFORNIA CLEAN AIR ACT WAIVER

Clean Air Act Design

The federal Clean Air Act (CAA) makes state and the federal governments partners in regulating air pollution. The CAA explicitly requires that control of air pollution be primarily the responsibility of states and local governments. An exception to this design is the regulation of new motor vehicle emissions, which has been principally a federal project, with one longstanding exception – the ability of California (CA) to set separate standards. Title II of the CAA preempts state standards for new motor vehicles, but stipulates under §209 that the EPA Administrator shall waive this preemption for California unless specified criteria are met. The emission reductions from these standards are incorporated into air quality management plans. Section 177 of the CAA allows other states to adopt California's standards under specified conditions.

Current Status and *Potential* Next Steps

The goal of the current greenhouse gas/fuel economy standards is to maintain one national program with consistent standards from EPA, CA, and the National Highway Traffic Safety Administration (NHTSA). If EPA and NHTSA decide to revise these standards, two separate programs would exist until either CA revises its program or EPA withdraws CA's waiver.

Withdrawal of the CA waiver would require a finding by EPA that:

a. The determination of the State that its standards are (in the aggregate) at least as protective of public health and welfare as federal standards is arbitrary and capricious;
b. California does not need such State standards to meet compelling and extraordinary conditions; or
c. Such State standards and accompanying enforcement procedures are not consistent with CAA §202(a).

Key Points

- In August 2017, the EPA announced a 45-day comment period and held a public hearing for stakeholders to submit any information they believe relevant to the Administrator's reconsideration of the January 2017 Final Determination for greenhouse gas (GHG) emissions standards for cars and light trucks for model years (MY) 2022-2025. EPA also requested comment on the separate question of whether the light-duty greenhouse gas standards for model year 2021 remain appropriate regardless of the Agency's decision on the Mid-term Evaluation (MTE).
    - EPA reopened the docket in order to get the most up-to-date information so that we can get back on track with what the regulation requires of the Agency.
    - Our goal was to increase public participation, listen to those impacted directly by our regulations and use the best available information and data to inform our regulatory actions.

- EPA Administrator Pruitt made a Final Determination on April 2, 2018, finding that the MY 2022-2025 standards are not appropriate and should be revised. EPA, in partnership with NHTSA, will initiate a notice and comment rulemaking to further consider appropriate standards for MY 2022-2025 light-duty vehicles.

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CAA Waiver Statutory Language

(1) The Administrator shall, after notice and opportunity for public hearing, waive application of this section to any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. No such waiver shall be granted if the Administrator finds that –

A. The determination of the State is arbitrary and capricious,

B. Such State does not need such State standards to meet compelling and extraordinary conditions, or

C. Such State standards and accompanying enforcement procedures are not consistent with §202(a).

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FY 2019 PRESS CONFERENCE & HEARINGS
CLEAN POWER PLAN

Previous Administration

The previous Administration issued the Clean Power Plan (CPP) on October 23, 2015. Soon after the rule was final, 150 entities including 27 states, 24 trade associations, 37 rural electric cooperatives, and three labor unions challenged the CPP highlighting a range of legal and technical concerns. By December 1, 2015, a bipartisan majority of the U.S. Congress formally disapproved of the CPP pursuant to the Congressional Review Act. On February 9, 2016, the U.S. Supreme Court stayed the CPP – immediately halting implementation. The Supreme Court had never before issued a stay to block the enforcement of a rule while it was being challenged in court. This suggests that at least a majority of the Court was persuaded that those challenging the CPP were "likely to succeed on the merits."

Recent Background & Current Status

On March 28, 2017, President Trump signed the Energy Independence Executive Order, which called for a review of the CPP. On April 4, 2017, EPA published a notice in the Federal Register announcing it was reviewing the CPP in line with the executive order. On October 16, 2017, EPA proposed to repeal the CPP. On November 28-29, 2017, EPA held a public hearing on the proposed repeal in Charleston, WV. EPA also held listening sessions on the proposed repeal in Kansas City, MO on February 21, 2018; San Francisco, CA, on February 28, 2018; and Gillette, WY, on March 27, 2018. The comment period is open until April 26, 2018.

On December 28, 2017, EPA published an Advanced Notice of Proposed Rulemaking (ANPRM) – a separate, but related action to the proposed repeal. The ANPRM started the conversation by asking for comment on whether the agency can or should develop a new rule, and if so, what "inside the fence line" options are legal, feasible, and appropriate. EPA received more than 250,000 comments during the comment period which closed February 26, 2018.

Talking Points

- The CPP was premised on a novel and expansive view of agency authority that this Administration has proposed to be inconsistent with the Clean Air Act (CAA).
- Prior to the CPP, EPA rules issued under Section 111 of the CAA were based on measures that could be applied to, for, and at a particular facility, also referred to as "inside the fence line" measures.
- The concept of cooperative federalism is a bedrock principal of the CAA. The regulation of existing sources under section 111 is *expressly* predicated on this concept, in that each state is in the first instance assigned the responsibility of adopting a state-specific plan for the control of existing source emissions. The CPP upended this principle by imposing a one-size-fits-all program from which states have little authority to deviate.
- The CPP mandates a shift from affordable, reliable, energy sources to costlier, intermittent renewables that were favored by the previous administration.
    - This not only intruded upon the longstanding autonomy of intrastate electricity matters, but also puts EPA at the helm of regulating the electricity grid instead of the Federal Energy Regulatory Commission.

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FY 2019 PRESS CONFERENCE & HEARINGS
DIESEL EMISSIONS REDUCTION ACT (DERA) GRANTS

QUESTION: Will the Agency continue to support DERA grants?

ANSWER:

- EPA will continue to provide DERA grants to reduce diesel emissions in priority areas and areas of highly concentrated diesel pollution with a primary focus on ports and school buses.

- EPA will continue to fund a rebate program, which will efficiently and precisely target awards toward improving children's health and turning over the nation's school bus fleet to cleaner vehicles.

- The DERA grant program is funded at $10M in the FY 2019 President's Budget. The overall approach in the budget is to focus on the Agency's core statutory obligations.

- Congress funded the DERA program at $75M in the FY 2018 Omnibus.

BACKGROUND:

- DERA grants support state, tribal, and local air quality management agency projects to improve air quality. Specifically, the Clean Diesel Program provides support for projects that protect human health and improve air quality by reducing harmful emissions from diesel engines.

- This program includes grants and rebates to help support emission reductions from existing diesel engines through engine retrofits, rebuilds, and replacements; switching to cleaner fuels; idling reduction; and other clean diesel strategies.

- In EPA's 2016 Third Report to Congress, the DERA program reduced the emissions of approximately 73,000 diesel vehicles, vessels or pieces of equipment, reducing NO_X by over 335,000 tons and PM by 14,700 tons.

- The State Clean Diesel Grant Program receives 30 percent of the annual DERA appropriation. Of the state portion of the funding, two-thirds is provided to participating states and territories as base funding. The remaining third is allocated as an incentive to those states and territories that voluntarily provide a match equal to the base funding.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
DERA	$60.0M	0.0	$59.6M	0.0	$10.0M	0.0	-$50.0M	0.0
Total	**$60.0M**	**0.0**	**$59.6M**	**0.0**	**$10.0M**	**0.0**	**-$50.0M**	**0.0**

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FY 2019 PRESS CONFERENCE & HEARINGS
DIESEL EMISSIONS REDUCTION ACT GRANTS (DERA)

Background and Current Status

- The Diesel Emissions Reduction Act grants (DERA) program, first authorized by Congress in the Energy Policy Act of 2005, and reauthorized in 2010, supports state, Tribal, and local air quality management agency projects to reduce harmful emissions from diesel engines. Emissions are reduced through engine retrofits, fuel switching, and other clean diesel strategies.

- EPA plans to continue the program, which is funded at $10.0M in the FY 2019 President's Budget.

Key Facts

- Congress funded the DERA program at $75M in the FY 2018 Omnibus.

- EPA's February 2016 Third Report to Congress reported that the DERA program reduced the emissions of approximately 73,000 diesel vehicles, vessels or pieces of equipment, reducing NO_X by over 335,000 tons and PM by 14,700 tons.

- The State Clean Diesel Grant Program receives 30 percent of the annual DERA appropriation. Of the state portion of the funding, two-thirds is provided to participating states and territories as base funding. The remaining third is allocated as an incentive to those states and territories that voluntarily provide a match equal to the base funding.

- The Volkswagen settlement funds may be used to meet the voluntary match for DERA state and Tribal grants, providing states and tribes further flexibility for the use of their trust funds, in addition to other activities outlined in the Settlement Agreement.

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EPA REQUIREMENTS FOR POWER GENERATORS IN REMOTE ALASKA

April 2018

Issue:

- Alaska stakeholders have raised concerns about the impacts of Clean Air Act rules on diesel generators used to provide critical power sources to remote areas of Alaska.

Background:

- EPA has promulgated two sets of regulations for stationary internal combustion engines that drive the electrical generators which provide power to most areas of rural Alaska: New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP). Each of these regulations includes provisions for stationary engines located in "remote areas of Alaska" which are less stringent in several respects than what would be required for engines located elsewhere.
- Because EPA promulgated the rules at different times, the definitions of "remote areas of Alaska" in the two rules were slightly different so that engines at some locations in Alaska were considered to be remote under the NESHAP but not under the NSPS, which created a disincentive to replace old engines. In July 2016, at the request of Alaska stakeholders, EPA completed a rulemaking to harmonize the definitions in the two rules.
- Even with the less stringent provisions for remote areas of Alaska, in October 2016, the Alaska Energy Authority (AEA) asked EPA to reconsider the effectiveness of, and need for, particulate matter (PM) emission control equipment on new Tier 3 marine engines providing prime power in remote areas of Alaska. AEA states that the benefit of installing PM emission controls on Tier 3 marine engine standards is questionable and that the increased capital and operating cost, decreased reliability, and additional complexity resulting from the PM emission control requirement are not warranted or economically viable.

Status:

- In follow-up discussions, AEA has expressed concern with the reliability of after-market diesel particulate filters (DPFs) installed in marine engines and the ability of power plant operators in remote areas of Alaska to maintain the controls. We are not aware of any Tier 3 marine engines in Alaska that have installed aftermarket DPFs at this time, so gathering the specific information to consider a rule change has been challenging.

Talking Point:

- We are continuing to work with AEA to collect information to help evaluate whether it is appropriate to reopen and revise the PM requirements in the current NSPS.

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FY 2019 PRESS CONFERENCE & HEARINGS
FEDERAL VEHICLE AND FUELS STANDARDS AND CERTIFICATION

QUESTION: Are adequate resources provided for the federal vehicle and fuels standards and certification programs?

ANSWER:

- The Agency will continue to perform its compliance oversight functions on priority matters and will conduct compliance oversight tests where there is evidence to suggest noncompliance.
- EPA will continue to implement the RFS program and carry out required statutory actions.
- EPA's S&T Atmospheric Protection Program is being proposed for elimination by a reduction of $8.0M and 33.8 FTE. EPA's Federal Vehicles and Fuels Standards and Certification program is being reduced by $18.5M and 11.8 FTE.
- EPA proposed reducing funding in the overall mobile sources program while prioritizing certification work in FY 2019.
- EPA's S&T Atmospheric Protection Program was funded in the FY 2018 appropriation.

BACKGROUND:

- The EPA develops, implements, and ensures compliance with national emission standards to reduce mobile source-related air pollution from light-duty cars and trucks, heavy-duty trucks and buses, nonroad engines and vehicles, and from the fuels that power these engines.
- The National Vehicle and Fuel Emissions Laboratory (NVFEL) ensures air quality benefits and fair competition in the marketplace by conducting testing operations on motor vehicles, heavy-duty engines, nonroad engines, and fuels to certify that the vehicles, engines, and fuels that enter the U.S. market comply with all federal clean air and fuel economy standards.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
S&T (Atmospheric Protection Program)	$8.0M	33.8	$8.0M	33.8	$0.0M	0.0	-$8.0M	-33.8
S&T (Federal Vehicles/Fuels Standards)	$93.6M	308.5	$93.0M	308.5	$75.1M	296.7	-$18.5M	-11.8
Total	**$101.6M**	**342.3**	**$100.5**	**342.3**	**$75.1M**	**296.7**	**-$26.5M**	**-45.6**

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FY 2019 PRESS CONFERENCE & HEARINGS
FEE-BASED ENERGY STAR PROGRAM

QUESTION: Will EPA reconstitute the ENERGY STAR program or is it eliminated?

ANSWER:

- EPA included a proposal to establish the ENERGY STAR program as a fee-funded program in the FY 2019 request. The fees would provide for necessary expenses, including the development, operation, and maintenance of the ENERGY STAR program.
- The legislative proposal to authorize collection and spending of the fees is included with the President's Budget.
- By requesting an advance appropriation of $46 million for FY 2019, the budget request provides the program the authority to use fees to operate the program in advance of collections. The fees would provide for necessary expenses, including the development, operation, and maintenance of the ENERGY STAR program.

BACKGROUND:

- The ENERGY STAR program will be established as a fee-funded program in FY 2019 for entities that participate in the ENERGY STAR program with fee collection beginning in FY 2019 after EPA undertakes a rulemaking and finalizes a fees rule.
- The ENERGY STAR program was funded in the FY 2018 appropriation.

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FY 2019 PRESS CONFERENCE & HEARINGS
GLIDER KITS

Issue/Topic:

- Gliders are specially manufactured types of heavy duty highway vehicles assembled from newly manufactured kits that include the vehicle's frame and cab, to which a used engine, transmission and axles are added.

- In November 2017, EPA published a proposal to repeal application of the "Heavy Duty Truck Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles – Phase 2" Final Rule to gliders, glider engines, and glider kits. The proposed repeal is premised on an interpretation of the Clean Air Act (CAA) under which gliders would be found not to constitute "new motor vehicles" or "new motor vehicle engines" under the CAA. Additionally, glider kits would not be treated as "incomplete" new motor vehicles. Under this proposed interpretation, EPA would lack authority to regulate glider vehicles, glider engines, and glider kits as "new" under CAA section 202.

Timing:

- The public comment period for the proposal closed on January 5, 2018, and EPA is currently reviewing the comments received.
- Talking Point: "EPA intends to complete this rulemaking as expeditiously as possible. We have not set a specific timeline."

Quote:

- "The previous administration attempted to bend the rule of law and expand the reach of the federal government in a way that threatened to put an entire industry of specialized truck manufacturers out of business," said EPA Administrator Scott Pruitt. "Accordingly, the Agency took comment on an interpretation of the Clean Air Act that recognizes the unique nature of a vehicle made up of both new and used component parts. Gliders not only provide a more affordable option for smaller owners and operators, but also serve as a key economic driver to numerous rural communities."
- Due to the unique way that gliders are manufactured, the Agency proposed that gliders should not be regulated as "new motor vehicles" or "new motor vehicle engines" under section 202 of the Clean Air Act. This action does not affect EPA's authority to address heavy-duty engine rebuilding practices under Clean Air Act section 202(a)(3)(D).
- EPA estimates that about 10,000 gliders were manufactured in 2015, comprising less than five percent of the Class 8 heavy-duty highway truck market.

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FY 2019 PRESS CONFERENCE & HEARINGS
MID-TERM EVALUATION

Background

In 1975, the Energy Policy Conservation Act established Corporate Average Fuel Economy (CAFE) standards for passenger cars and light trucks. The standards were set by the National Highway Traffic Safety Administration (NHTSA) and based on "technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy."

In 2007, the Energy Independence and Security Act required NHTSA to increase CAFE standards to at least 35 miles per gallon (mpg) by 2020, up from roughly 26.6 mpg in 2007. It also directed DOT to study improvements in medium- and heavy-duty vehicles and, if feasible, issue standards for those vehicles as well. That same year, in *Massachusetts v. EPA*, the Supreme Court held that GHGs fit within the definition of "air pollutant" under the Clean Air Act (CAA) §202(a)(1). Based on this holding, the Court stated that if EPA were thereafter to make a finding that emissions of GHGs from new motor vehicles cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare "EPA has the statutory authority to regulate the emissions of such gases from" such vehicles. In December 2009, EPA issued its GHG endangerment finding under CAA §202(a)(1).

Light-duty Vehicles

- In May 2010, EPA and NHTSA issued GHG and CAFE standards for light-duty vehicles model year (MY) 2012-2016 ("Phase 1").
- In October 2012, EPA and NHTSA issued GHG and CAFE standards for MY 2017-2025 ("Phase 2"). Phase 2 required EPA to conduct a Mid-term Evaluation (MTE) of the MY 2022-2025 GHG standards no later than April 1, 2018.
- On January 12, 2017, the outgoing EPA Administrator signed the Final Determination of the Mid-Term Evaluation – nearly a year and a half before it was due. That Final Determination affirmed the previously-issued standards.
- On March 15, 2017, Administrator Pruitt announced his intention to reconsider the MTE Final Determination, and to consult and coordinate with the Department of Transportation.
    - On April 2, 2018, Administrator Pruitt made a Final Determination finding that the MY 2022-2025 standards are not appropriate and should be revised.

In August, 2017, EPA issued a Federal Register notice requesting comment on:

1. Reconsideration of the Final Determination of the Mid-Term Evaluation of Greenhouse Gas Emissions Standards for Model Year 2022-2025 Light-Duty Vehicles
    - This allows for the inclusion of data that was not previously available, and EPA can consider studies from automakers and others regarding the technological feasibility, economics, and other potential impacts of the standards.

2. Model Year 2021 Greenhouse Gas Emissions Standards

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- In the interest of harmonization between the GHG and CAFE programs, EPA also requested comment on the separate question of whether the light-duty greenhouse gas standards for model year 2021 remain appropriate, regardless of the Agency's decision on the MTE.

EPA provided for a public hearing and a 45-day comment period, which closed on October 5, 2017.

Key Points:

1. The Obama Administration rushed the MTE by simply maintaining the standards and issuing a Final Determination on January 12, 2017—nearly a year and a half before it was due.

   - Concerns were raised about the premature timing and adequacy of the analysis of the determination.

2. EPA provided a new comment period and reopened the docket in order to get the most up-to-date information so that we can get back on track with what the regulation requires of the Agency.

   - Some stakeholders previously commented that they were preparing studies to inform the Mid-term Evaluation that were not ready for submission during the previous Administration's Mid-term Evaluation comment periods.
   - This additional comment period provided an opportunity for commenters to submit to EPA additional studies and other materials as well as to complete the preparation of their comments, or submit additional comments in light of newly available information.

3. Our goal is to increase public participation, listen to those impacted directly by our regulations and use the most current and accurate information available to inform our regulatory actions. EPA Administrator Pruitt made a Final Determination on April 2, 2018, finding that the MY 2022-2025 standards are not appropriate and should be revised. EPA, in partnership with NHTSA, will initiate a notice and comment rulemaking to further consider appropriate standards for MY 2022-2025 light-duty vehicles.

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FY 2019 PRESS CONFERENCE & HEARINGS
OIL AND GAS NEW SOURCE PERFORMANCE STANDARDS

Previous Administration

- On June 3, 2016, EPA promulgated New Source Performance Standards (NSPS) under Section 111 of the Clean Air Act that regulated greenhouse gases, through an emissions limit on methane, sources in the oil and natural gas sector. 40 C.F.R. Part 60, Subpart OOOOa
  - Commonly referred to as the "Methane Rule" or OOOOa ("Quad Oa") regulations.
  - Under this rule EPA regulated greenhouse gases in the form of emissions limitations on methane.
  - This rule applies to the production, processing, transmission, and storage segments.

- In August 2016, EPA received administrative petitions seeking reconsideration of various aspects of the rule.

Recent Background and Current Status

- In April 2017, in response to administrative petitions for reconsideration, Administrator Pruitt announced that the Agency was convening a proceeding to reconsider certain aspects of the Methane Rule. On June 5, 2017, EPA issued a three-month administrative stay of the regulations and noted additional issues that meet the criteria for reconsideration.
- On June 16, 2017, EPA proposed a two-year stay of the Methane Rule's fugitive emissions requirements, well site pneumatic pump standards, and requirements that closed vent systems be certified by a professional engineer, while the Agency reconsiders issues associated with these requirements. In the proposal, the Agency noted that it intends to look broadly at the entire 2016 rule during the reconsideration proceeding.
- In July, the U.S. Court of Appeals for the D.C. Circuit vacated EPA's three-month administrative stay of portions of the Methane Rule. However, the court emphasized that that nothing in its opinion limits EPA's authority to reconsider the final rule and proceed with its June 16 notice of proposed rulemaking.
- On November 8, 2017, EPA issued two Notices of Data Availability (NODAs) related to the Agency's proposed stays. The Agency sought comment on the information provided in the NODAs, which falls into two categories: (1) challenges to implementing the requirements in the 2016 rule that would be covered by proposed stays; and (2) the Agency's legal authority to issue a stay.
- On March 12, 2018, the Agency amended two narrow provisions of the 2016 NSPS to address aspects of the rule that pose significant and immediate compliance concerns.
- The amendments address two of the fugitive emissions requirements in the 2016 rule: a requirement that leaking components be repaired during unplanned or emergency shutdowns; and the monitoring survey requirements for well sites located on the Alaskan North Slope.
- EPA issued the amendments based on public comments and information the agency received in response to its June 2017 proposed stays of certain requirements in the rule and subsequent NODAs.
- EPA is continuing to review comments the agency received on the proposed stays and the NODAs. EPA will issue a proposal addressing the reconsideration of the rule for public review and comment at a later date.

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Enforcement Approach

- In an October 25, 2017, letter responding to Senate inquiries regarding enforcement of the Methane Rule, EPA reaffirmed that:
  - "Consistent with the EPA's practice on all enforcement matters, the EPA will review compliance with the Methane Rule on a case-by-case basis, taking into account considerations such as the degree of risk and the nature of the conduct."
  - "…in no way is the EPA attempting to circumvent the recent court ruling or operate an ad hoc approach to undermine that ruling."
  - Currently, 20 states have fully delegated enforcement authority for the Methane rule (two additional states have partial delegation).
  - "The EPA is available to assist and/or partner with delegated states to ensure compliance with the environmental laws when a state requests assistance. Which actions are taken or what assistance is provided is determined on a case-by-case in all enforcement matters, not just those relating to the Methane Rule. Where states do not have delegated enforcement authority for the Methane Rule, the EPA will take action on a case-by-case basis."

EPA has recently issued guidance that provides concrete steps to enhance EPA-state planning and communications on compliance assurance work in authorized states.[1] In this guidance, EPA restated our position to generally defer to authorized States as the primary day-to-day implementer of their authorized/delegated programs. The guidance provides examples of specific situations where EPA involvement in individual inspections and enforcement is warranted.

[1] "Interim OECA Guidance on Enhancing Regional-State Planning and Communication on Compliance Assurance Work in Authorized States" (Susan Parker Bodine to Regional Administrators, January 22, 2018)

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FY 2019 PRESS CONFERENCE & HEARINGS
PARTNERSHIP AND GREENHOUSE GAS REPORTING PROGRAMS

QUESTION: What is the status of EPA's partnership programs including the Greenhouse Gas Reporting Program?

ANSWER:

- EPA included a proposal to establish the ENERGY STAR program as a fee-funded program in the FY 2019 request. The fees would provide for necessary expenses, including the development, operation, and maintenance of the ENERGY STAR program. The legislative proposal to authorize collection and spending of the fees is included with the President's Budget.
- The budget also includes support for the Greenhouse Gas Reporting Program, including support to meet Treaty obligations under Article 4 of the 1992 Framework Convention on Climate Change, which was ratified by the Senate to prepare the annual *Inventory of U.S. Greenhouse Gas Emissions and Sinks.*
- The FY 2019 President's Budget does not request funding for the partnership programs with industry, businesses, states, tribes, and localities. This budget focuses on the Agency's core statutory obligations.
- The EPA proposes to reduce this program by $81.9M and 70.3 FTE in FY 2019.
- EPA's partnership programs were funded in the FY 2018 appropriation.

BACKGROUND:

- The Atmospheric Protection Program (formerly named the Greenhouse Gas Reporting program) is funded at $13.5M and 120.0 FTE in the President's Budget. Of this total, ENERGY STAR FTE included in the President's Budget are to be funded through a new fee.
  - The ENERGY STAR program will be established as a fee-funded program in FY 2019 for entities that participate in the ENERGY STAR program with fee collection beginning in FY 2019 after EPA undertakes a rulemaking and finalizes a fees rule.
  - By requesting an advance appropriation of $46 million for FY 2019, the budget provides the program the authority to use fees to operate the program in advance of collections. The fees would provide for necessary expenses, including the development, operation, and maintenance of the ENERGY STAR program.
  - The budget does not request funding for the partnership programs with industry, businesses, states, tribes, and localities including AgSTAR, the Coalbed Methane Outreach Program, the Landfill Methane Outreach Program, Natural GasSTAR, the Natural Gas STAR Methane Challenge Program, the Global Methane Initiative, the SmartWay Program, the Green Power Partnership, the Combined Heat and Power Partnership, the Center for Corporate Climate Leadership, and the State and Local Climate and Energy Program.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$95.4M	190.3	$94.8M	190.3	$13.5M	120.0	-$81.9M	-70.3
Total	**$95.4M**	**190.3**	**$94.8M**	**190.3**	**$13.5M**	**120.0**	**-$81.9M**	**-70.3**

FY 2019 PRESS CONFERENCE & HEARINGS
PROGRAM ELIMINATION: REDUCE RISKS FROM INDOOR AIR

QUESTION: Why has EPA eliminated its Indoor Air Program?

ANSWER:

- The Indoor Air Program is proposed for elimination in FY 2019. This is a mature program where states, locals, tribes, and non-governmental agencies have the technical capacity to continue the work done under this program.
- This program is proposed for elimination in FY 2019 with a reduction of $13.4M and 40.7 FTE.
- The focus is on core statutory obligations.
- EPA's Indoor Air Program was funded in the FY 2018 appropriation.

BACKGROUND:

- EPA utilizes a range of strategies, including partnerships with non-governmental, professional, federal, state and local organizations to educate and prepare individuals, school districts, industry, the health care community, and others to take action to reduce health risks from poor indoor air quality in homes, schools, and other buildings.
- EPA also provides technical assistance and conducts field measurements and assessments for indoor air quality remediation, when requested.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$13.3M	39.1	$13.2M	39.1	$0.0M	0.0	-$13.3M	-39.1
S&T	$0.1M	1.6	$0.1M	1.6	$0.0M	0.0	-$0.1M	-1.6
Total	**$13.4M**	**40.7**	**$13.3M**	**40.7**	**$0.0M**	**0.0**	**-$13.4M**	**-40.7**

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FY 2019 PRESS CONFERENCE & HEARINGS
RADIATION PROTECTION PROGRAM

QUESTION: What resources are provided for the Radiation Protection Program?

ANSWER:

- The Agency budget supports core statutory obligations and statutory authorities.
- While EPA has reduced resources for the radiation protection program, the Agency expects to meet core statutory requirements to implement its regulatory oversight responsibilities for Department of Energy (DOE) activities at the Waste Isolation Pilot Plant (WIPP) facility, as mandated by Congress in the WIPP Land Withdrawal Act of 1992.
- EPA also will meet basic requirements under the Atomic Energy Act to establish health and environmental protection standards for exposures to radiation.
- The Agency's Radiation Protection Program is proposed to be reduced by $7.6M and 34.1 FTE.

BACKGROUND:

- EPA has regulatory oversight responsibilities for Department of Energy (DOE) activities at the Waste Isolation Pilot Plant (WIPP) facility, as mandated in the WIPP Land Withdrawal Act of 1992. This includes conducting inspections of waste generator facilities and evaluating DOE compliance with applicable environmental laws and regulations to ensure the permanent and safe disposal of all radioactive waste shipped to WIPP.
- The EPA also has responsibilities to establish health and environmental protection standards for exposures to radiation.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$8.6M	36.8	$8.5M	36.8	$2.0M	10.0	-$6.6M	-26.8
S&T	$2.0M	12.3	$2.0M	12.3	$1.0M	5.0	-$1.0M	-7.3
SF	$2.0M	10.0	$2.0M	10.0	$2.0M	10.0	$0.0M	0.0
Total	**$12.6M**	**59.1**	**$12.5M**	**59.1**	**$4.0M**	**25.0**	**-$7.6M**	**-34.1**

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FY 2019 PRESS CONFERENCE & HEARINGS
RENEWABLE FUEL STANDARD & POINT OF OBLIGATION

Annual Volume Standards

- Final Renewable Fuel Standards for 2018, and the Biomass-Based Diesel Volume for 2019 signed on November 30, 2017, in keeping with the statutory deadline.
- Volumes for each category of renewable fuel are very similar to 2017 and just slightly more than the NPRM due to updated data on projected cellulosic biofuel production.
- Advanced volume of 4.29 bill gal and Total Renewable Fuel volume of 19.29 bill gal are the result of the use of the full cellulosic waiver (i.e., same reduction from statutory volumes as for cellulosic).
- EPA finalized a BBD volume requirement of 2.1 billion gallons for 2019.
- EPA finalized a standard of 2.1 billion gallons for 2018 in the 2017 Annual Volume Standards rule.

	2017 (Bgal)	2018 (Statutory)	2018 (Proposed)	2018 (Final)	2019 (Final)
Cellulosic	0.31	7.00	0.24	0.29	n/a
BBD*	2.00	≥1.00	2.10	2.10	2.1
Advanced	4.28	11.00	4.24	4.29	n/a
Conventional	15.00	15.00	15.00	15.00	n/a
Total	19.28	26.00	19.24	19.29	n/a

**Note BBD is shown in physical gallons (rather than ethanol-equivalent gallons).*

- EPA intends to issue a proposed rule for the 2019 RFS standards, and the biomass-based diesel volume for 2020, by the summer of 2018 in order to meet the November 30, 2018 statutory deadline.
- Pending Litigation:
  - EPA is currently in litigation defending both the final 2018 and 2017 Annual Volume Standards rules.
  - EPA has taken no action to date in response to the judicial remand of the 2016 total renewable fuel standard.

Point of Obligation

- EPA received several petitions requesting that we initiate a rulemaking process to reconsider or change 40 CFR 80.1406, which identifies refiners and importers of gasoline and diesel fuel as the entities responsible for complying with the annual percentage standards adopted under the RFS.
- This "point of obligation" for the RFS program was established in a 2010 rulemaking based on the statutory direction of the Clean Air Act to impose the renewable fuel obligations on "refiners, blenders, and importers, as appropriate," while also "prevent[ing] the imposition of redundant obligations."
- On November 22, 2017, EPA denied requests from petitioners to initiate a rulemaking to change the point of obligation for compliance under the Renewable Fuels Standards program.
- This denial is currently being challenged in litigation. In addition, Valero has filed a petition seeking reconsideration of our decision to deny the petitions.

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SMALL REMOTE ALASKA INCINERATORS

April 2018

Issue:

- Alaska industry has raised concerns regarding compliance with EPA's Commercial and Industrial Solid Waste Incinerator (CISWI) rules at small incinerators in remote Alaska.

Background:

- In 2013 EPA promulgated revised final standards (originally issued in March 2011) for air emissions from new and existing commercial and industrial solid waste incinerators, including small remote incinerators (SRIs).
- CISWI SRIs include any batch-operated unit that combusts 3 tons per day or less solid waste and is more than 25 miles driving distance to the nearest municipal solid waste landfill.
- As required under the Clean Air Act (CAA), EPA set SRI emission standards for nine pollutants, standards that are now in effect for new sources.
- Existing sources would be required to comply with the standards starting February 7, 2018, unless Alaska adopted an earlier state plan, and Alaska has no plans to develop one.

Status:

- In 2013, Alaska's SRI Coalition committed to work with EPA on issues with the existing SRI emission standards. EPA committed to work with the Coalition on its effort to obtain additional incinerator emissions data and, if justified by the data, to conduct a rulemaking.
- Industry and environmental groups challenged the 2013 CISWI rule in the D.C. Circuit Court of Appeals, and in 2016, the Court upheld EPA's treatment of small remote incinerators.
- In 2016, North Slope oil and gas operators raised concerns about achievability of the emissions limits.
- In January 2017, EPA proposed a revised federal plan for states, including Alaska, that have not submitted a state plan for existing CISWI. We have not finalized the plan. (Note that Sierra Club recently filed a mandatory duty suit on this issue.)
- In June 2017, the SRI Coalition provided some data from its testing program.
- More recently, the SRI Coalition asked EPA to consider work practice standards for these units. EPA's position has been that the current language of the CAA does not allow this change.
- The 2018 Consolidated Appropriations Bill prohibited EPA from implementing or enforcing the 2011 revised regulations with respect to Alaska SRIs and reinstated the prior regulations:

  Sec. 433. None of the funds made available in this Act may be used to implement or enforce the regulation issued on March 21, 2011 at 40 CFR part 60 subparts CCCC and DDDD with respect to units in the State of Alaska that are defined as "small, remote incinerator" units in those regulations and, until a subsequent regulation is issued, the Administrator shall implement the law and regulations in effect prior to such date.

Talking Points:

-
- The Appropriations bill language makes clear that existing small, remote incinerators in Alaska do not need to meet EPA's 2011 standards at this time.

- EPA remains committed to working with the SRI Coalition on small remote incinerators in Alaska.

FY 2019 PRESS CONFERENCE & HEARINGS
STATE, TRIBAL, AND LOCAL AIR GRANT PROGRAMS

QUESTION: Why are these grant programs being reduced?

ANSWER:

- The reduction to State and Local Air Quality Management grants in the FY 2019 request refocuses support for continuing environmental state programs responsible for carrying out air quality implementation activities back to states. The EPA will work with states to target funds to core requirements while providing flexibility to address particular priorities.

- Consistent with the overall approach to grants, EPA will work with states to target funds for core requirements while providing flexibility to address state and local air quality priorities.

- The EPA budget proposes to reduce various air grant programs (*i.e.*, State AQM, Tribal AQM, Radon, DERA, and Targeted Airsheds) by $168.1M.

- EPA's Targeted AirSheds grants and Radon State grants were funded in the FY 2018 appropriation.

BACKGROUND:

- EPA grants support work of state, tribal and local air quality management agencies and fund projects to improve air quality.

- The Radon State Grant Program is a mature program which is being returned to state and local agencies to run.

- The DERA Program, which includes grants and rebates funded under the Diesel Emissions Reduction Act (DERA), provides support for projects that protect human health and improve air quality by reducing harmful emissions from diesel engines. DERA grants would be used to reduce diesel emissions in priority areas and areas of highly concentrated diesel pollution with a primary focus on ports and school buses.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
State AQM	$228.2M	0.0	$226.7M	0.0	$152.0M	0.0	-$76.2M	0.0
Tribal AQM	$12.8M	0.0	$12.7M	0.0	$9.0M	0.0	-$3.8M	0.0
Radon	$8.1M	0.0	$8.0M	0.0	$0.0M	0.0	-$8.1M	0.0
DERA	$60.0M	0.0	$59.6M	0.0	$10.0M	0.0	-$50.0M	0.0
Targeted AirSheds	$30.0M	0.0	$29.8M	0.0	$0.0M	0.0	-$30.0M	0.0

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Total	**$339.1M**	**0.0**	**$336.8M**	**0.0**	**$171.0M**	**0.0**	**-$168.1M**	**0.0**

FY 2019 PRESS CONFERENCE & HEARINGS
STATIONARY SOURCE REGULATIONS AND AIR QUALITY MANAGEMENT

QUESTION: What are the strategic areas of focus for programs that support air regulation development and implementation?

ANSWER:

- With reduced resources, the Agency, consistent with its strategic plan, will place an increased focus, working with states, to increase the number of areas in attainment, to improve processing of State Implementation Plan (SIP) actions, and to accelerate EPA issued permits.

- The Agency will work to develop a more efficient approach to meeting its statutorily-required NAAQS reviews. EPA will work with states and other stakeholders to identify burdensome and cost-reduction actions needed to improve the federal-state partnership and the stationary source regulatory process as a whole.

- The priority will be meeting court ordered deadlines.

- EPA's Stationary Source Regulations and Air Quality Management Programs are being proposed to be reduced by $38.4M and 283.6 FTE.

BACKGROUND:

- In addition to developing air quality regulations, EPA provides guidance, technical support, and other outreach to state, Tribal, and local air quality agencies to implement their own programs.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM (Stationary Source Regulations)	$21.9M	122.5	$21.7M	122.5	$16.9M	79.1	-$5.0M	-43.4
EPM (Federal Support for AQM)	$126.2M	822.8	$125.4M	822.8	$96.1M	585.7	-$30.1M	-237.1
S&T (Federal Support for AQM)	$7.3M	19.2	$7.3M	19.2	$4.0M	16.1	-$3.3M	-3.1
Total	**$155.4M**	**964.5**	**$154.4M**	**964.5**	**$117.0M**	**680.9**	**-$38.4M**	**-283.6**

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STATUS OF STATE IMPLEMENTATION PLAN ACTIONS

ISSUE/TOPIC: To provide history and current status of total SIP actions and progress on the backlog.

BACKGROUND:

- Regions establish SIP goals by developing SIP management plans in collaboration with state and local air agencies. Each region, working with air agencies, reviews/prioritizes SIP actions based on state priorities as well as air quality benefit.

- Annually, regions identify SIP action goals for the year. The focus of this data is action taken on SIPs generally, not the nature of the action being taken (i.e., approval/disapproval etc.).

- The information below is for FY 2017 and FY 2018 year to date:

  - The total number of SIP submittals acted on by the Regions:
    - **FY 2017: 385***
    - **As of end of March: 106****
  - Total number of backlogged SIPs pending for review:
    - At the end of FY 2017: 360*
    - **As of end of March: 387****

*Result included in FY 2017 Annual Performance Report

**Result included in bowling chart for April Monthly Business Review

TALKING POINTS:

- I am committed to reducing the SIP backlog and have directed my staff to work with the states to reduce this backlog as expeditiously as possible.
- Actions on SIPs are an important part of managing air quality nationally. EPA will continue to collaborate closely with air agencies to ensure that EPA is taking actions on the SIPs that matter most for helping air agencies achieve air quality goals.

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FY 2019 CONGRESSIONAL HEARING
2017 EMPLOYEE VIEWPOINT SURVEY RESULTS

QUESTION: What were EPA's 2017 Employee Viewpoint Survey (EVS) results?

ANSWER:

- In 2017, EPA achieved an all-time high for our Employee Engagement Index (EEI) at 69 percent. This index is the composite score from 15 questions measuring employees' dedication, persistence, work effort and attachment to their organization's mission.

- The Agency's sub-index for Supervisors continues to rank higher than the government average at 81 percent. This metric is indicative of high approval ratings for first line supervisors across EPA.

BACKGROUND:

- OPM administered the 2017 EVS from May 2, 2017, through June 15, 2017. The Agency began receiving EVS data reports from OPM during the summer of 2017. The Assistant Administrators and Regional Administrators have reviewed their 2017 EVS data and determined areas of strengths as well as areas of focus.

- On May 1, 2017, EPA launched an internal marketing campaign to support the 2017 EVS survey, which included videos, blog entries, intranet banners and newsletter articles.

- In 2017, EPA had a response rate of 67 percent with 9,414 employees completing the survey. The government-wide response rate was 45.5 percent.

- In 2017, our EEI score rose 2 percent since the previous year to an all-time agency high. In addition, EPA's New Inclusion Quotient Score rose 5 percent since last year.

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FY 2019 CONGRESSIONAL HEARING
ENHANCED COORDINATION WITH THE INSPECTOR GENERAL ON EMPLOYEE MISCONDUCT

QUESTION: How is EPA addressing employee conduct and performance?

ANSWER:

- The President's Executive Order on Workforce Reshaping and Restructuring calls for agencies to review and address agency plans to maximize employee performance. EPA is developing new mandatory supervisory trainings, a mandatory supervisory Performance Appraisal and Recognition System (PARS) critical element, and updating the Agency's PARS policy.

- To promptly address employee misconduct, EPA has implemented a Memorandum of Understanding between the Office of the Inspector General, Office of General Counsel, and the Office of Administration and Resources Management. Representatives from these offices hold bi-weekly meetings where the OIG updates the Agency on misconduct matters accepted for investigation.

- As a result of the collaboration and accountability efforts from these meetings, there has been an approximately 60% reduction the number of open OIG misconduct cases that are tracked by these groups.

BACKGROUND:

- The Labor and Employee Relations community meets monthly to discuss changing and evolving requirements, ensuring consistency and continuity of services to customers, strengthening and streamlining operations, and leveraging resources.

- The Agency has implemented a case management and reporting system (LERIS) to ensure proper record keeping and case handling. This system allows for sharing of issues; promotes consistency; and allows for more accurate and efficient reports.

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FY 2019 CONGRESSIONAL HEARING
GRANTS MANAGEMENT

QUESTION: Has EPA made improvements in processing its financial assistance grants?

ANSWER:

- In the past four years, EPA issued on average nearly $4 billion in grants per fiscal year.
- In the FY 2019 President's Budget, grants make up $3 billion or 48 percent of the total budget.
- In the FY 2018 Omnibus, grants were funded at $3.6 billion, $35 million above the FY 2017 Enacted budget. In addition, the infrastructure investment provided a total of $650 million for the Clean and Drinking Water State Revolving loan funds and grants to small and disadvantaged communities, lead reduction projects, and voluntary testing of lead in water in schools and childcare facilities.
- In FY 2019, EPA requests $21.6 million for the Financial Assistance Grants/Interagency Agreement Management program, a decrease of $6.6 million from the FY 2017 Enacted.
- For the administrative management of the new EPA Lean Management System, two mission measures have been established to monitor and improve the productivity and effectiveness of key grants business processes.

BACKGROUND:

- In FY 2019, grants funding is focused on states and tribes as the primary implementers with reduction to discretionary grant programs that are not aligned with the administration's priorities.

RESOURCES:
(Dollars in Millions)

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$25.6M	143.6	$25.4M	143.6	$19.0M	100.5	-$6.6M	-43.1
SF	$2.6M	17.6	$2.6M	17.6	$2.6M	15.2	$0.0M	-2.4
Total	**$28.2M**	**161.2**	**$28.0M**	**161.2**	**$21.6M**	**115.7**	**-$6.6M**	**-45.5**

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FY 2019 CONGRESSIONAL HEARING
HUMAN RESOURCES SHARED SERVICE CENTER

QUESTION: What changes are being made to EPA's Human Resources Transactional Services?

ANSWER:

- Beginning in June 2018, the work currently being performed by the Human Resources Shared Service Center located in Las Vegas, Nevada leased space will transition to the two EPA-owned locations. The move will be completed by September 30, 2018.

- The Centers in Cincinnati and Research Triangle Park will process personnel and benefits actions for the Agency's employees.

- Staff affected by this consolidation were given the option to relocate to one of the other locations.

- This consolidation will improve the utilization of EPA's real property portfolio and will positively impact staff coordination and service delivery. The goal is to improve customer service, provide more consistent HR advice, and foster increased confidence from customers.

- The change further illustrates the Agency's commitment to providing service in the most efficient manner to customers across the Agency.

BACKGROUND:

- EPA currently delivers its human resources transactional services through three centralized shared service centers in Cincinnati, Ohio; Research Triangle Park, North Carolina; and Las Vegas, Nevada.

- The centers in Cincinnati, Ohio and Research Triangle Park, North Carolina are located in EPA-owned facilities. The Las Vegas, Nevada center, the smallest of the three, is in leased space.

- In order to provide the most cost-effective service to employees and managers, EPA examined our HR service model to determine if efficiency can be obtained through realigning organizations, streamlining management layers, and examining the facility footprint.

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FY 2019 CONGRESSIONAL HEARING
PHYSICAL SPACE REDUCTIONS

QUESTION: What is the outlook on EPA's physical space reductions from FY 2018 – FY 2023?

ANSWER:

- In FY 2018, EPA will continue to invest to right size EPA's workspaces, enabling the Agency to release office space and reduce long-term rent costs. For example: reducing one-fourth of Region 2 space and one-fifth of Potomac Yard space will save the Agency nearly $7 million in rent cost per year.

- Currently planned consolidations will allow EPA to release an estimated 908 thousand square feet of office space, including:
  - Region 6 (Dallas and Addison) and Region 8 (Denver) will cumulatively release over 92 thousand square feet and save the Agency approximately $1 million annually.
  - The Norwood Facility in Cincinnati, OH will be released and current functions will consolidate into EPA-owned Andrew W. Breidenbach Environmental Research Center in Cincinnati, OH. The release of 28,594 square feet of space will save the Agency $670 thousand annually.
  - For some owned facilities where EPA does not incur leases costs, the Agency will still save resources. For example, in disposing the Grosse Ile Building, EPA will save the Agency approximately $320 thousand per year in operations and maintenance costs.

- The FY 2018 Omnibus provided similar levels to the FY 2017 Enacted levels which will assist the Agency in continuing this work.

Region 3 Philadelphia Office:

EPA's Region 3 office currently leases space at 1650 Arch Street in Philadelphia.

- There are no plans to close the Region 3 office. This is simply an effort to save money by releasing square footage and right-sizing office space.
- Over the last several years, EPA has been working with the General Services Administration (GSA) to complete the competition for a new lease.
- EPA developed our requirements for new space approximately two years ago. However, it is now necessary to analyze our requirements to provide a right-sized office for the long term.
- EPA is updating the Program of Requirements and will re-engage with GSA on the procurement of a new lease.

Regional Laboratories:

- In 2016, the Agency made the decision to release the leased space in Athens, GA and merge the regional lab with an EPA-owned ORD research lab located in Athens, GA. This is underway.
- EPA has five regional labs located in commercially leased space: R1 (Chelmsford, MA); R4 (Athens, GA); R6 (Houston, TX); R7 (Kansas City, KS); and R9 (Richmond, CA).

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- Three regional labs are in EPA-owned space: R2 (Edison, NJ); R3 (Ft. Meade, MD); and R10 (Port Orchard, WA).
- Two regional labs are in Federally-owned space: R5 (Chicago, IL) and R8 (Lakewood, CO).
- Over the past 5 years EPA has been assessing our laboratory enterprise in an effort to identify opportunities to increase efficiency and effectiveness while ensuring the Agency's ability to continue to provide the preeminent research, science, and technical support critical to advance our mission.

BACKGROUND:

- Since 2012, EPA has released over 517 thousand square feet of office space nationwide, resulting in cumulative annual rent avoidance of nearly $20 million across all appropriations. These savings help offset EPA's escalating rent and security costs.

- EPA is continuing to invest in reconfiguring workspace to align with current workforce levels and to reduce long-term rent costs, consistent with the Federal Assets Sale and Transfer Act (FASTA) of 2016.

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FY 2019 CONGRESSIONAL HEARING
VOLUNTARY EARLY RETIREMENT AUTHORITY AND VOLUNTARY SEPARATION INCENTIVE PAYMENTS

QUESTION: What are EPA's Voluntary Early Retirement Authority (VERA) and Voluntary Separation Incentive Payments (VSIP) plans?

ANSWER:

- Moving forward, VERA/VSIP will be used in limited circumstances dependent upon agency programmatic priorities.

BACKGROUND:

- In April 2017, the Agency announced that it was initiating an early out/buyout program targeted for completion by the end of September 2017. The Agency's business case for requesting VERA/VSIP focused on improving overall efficiency and effectiveness across the enterprise.

- A total of 376 employees departed the Agency by then end of September 2017, for a total lump sum cost of $9.3 M. The departure of these employees represents 2.5 percent of the Agency's pre-VERA/VSIP workforce. This is roughly equivalent to prior VERA/VSIP efforts.

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FY 2019 CONGRESSIONAL HEARING
EPA's FY 2018 – 2022 STRATEGIC PLAN

QUESTION: What are the main elements of EPA's FY 2018 – 2022 Strategic Plan?

ANSWER:

- EPA's Strategic Plan emphasizes EPA's "Back-to-Basics" agenda. The agenda set out in the plan has three over-arching goals which reflect the Administrator's core philosophies: (1) refocus the Agency back to its core mission; (2) restore power to the states through cooperative federalism; and (3) lead the Agency through improved processes and adhere to the rule of law.
- The Strategic Plan contains three goals, 11 objectives, 26 Strategic Measures and six Agency Priority Goals.
- All funding provided in the FY 2019 President's Budget aligns with goals and objectives in the Strategic Plan.

BACKGROUND:

- Top priorities for the Agency include:

  Air
  - Key activities to support attainment of the national ambient air quality standards (NAAQS) and implementation of stationary source regulations.
  - Rapidly approve state and tribal implementation plans for attaining air quality standards to reduce contaminants that cause or exacerbate health issues.

  Water
  - Modernize and update aging drinking water, wastewater, and stormwater infrastructure on which the American public depends.
  - Leverage the State Revolving Funds (SRFs) and Water Infrastructure Finance and Innovation Act (WIFIA) funds to assist states, tribes, municipalities, and private entities to finance high-priority infrastructure investments that protect human health and the environment.

  Land
  - Implement Superfund Task Force recommendations to accelerate the pace of cleanups and promote site reuse, while addressing risks to human health and the environment.
  - Accelerate cleanup by re-prioritizing some resources to focus on remedial actions, construction completions, ready-for-reuse determinations, and National Priorities List (NPL) site deletions.

  Chemicals
  - Prioritize the safety of chemicals in the marketplace in the implementation of the new *Frank R. Lautenberg Chemical Safety for the 21st Century Act*, which modernizes the *Toxic Substances and Control Act* (TSCA).
  - Focus on meeting statutory requirements and mandatory deadlines of TSCA and ensure our reviews are efficient, effective and transparent to stakeholders.

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FY 2019 CONGRESSIONAL HEARING
STATE AND TRIBAL ENGAGEMENT THROUGH NPM GUIDANCE

QUESTION: How do National Program Managers (NPM) Guidances advance cooperative federalism?

ANSWER:

- In 2018 EPA plans to engage with states and tribes to develop joint priorities for the FY 2020-2021 NPM Guidances, which translate the FY 2020 President's Budget decisions into operational program priorities, strategies and measures.

- Following release of the FY 2020 President's Budget in February 2019, EPA will post draft FY 2020-2021 NPM Guidances on the internet for a 30-day public review and comment by states and tribes. Final NPM guidances and response to comments will be posted on the internet in April 2019.

- EPA will engage with states and tribes in developing grant workplans (e.g., categorical grants, Performance Partnership Agreements, and Performance Partnership Grants).

- State and tribal contributions are captured in EPA's national programmatic results.

- NPM Guidances are issued by the five major programmatic NPMs: OAR, OCSPP, OECA, OSWER, OW. OCIR, OITA, and OEI also issue NPM Guidances.

BACKGROUND:

- Throughout EPA's history, NPMs have used various mechanisms to communicate national operational priorities, strategies, and measures for use by the regions, states, and tribes.

- The current NPM Guidance process is a two-year cycle developed jointly by an EPA-state workgroup and first implemented in FY 2016-2017.

- The two-year cycle was designed to (1) improve meaningful engagement with states and tribes in joint priority setting, (2) highlight flexibilities for EPA regions, states and tribes, and (3) better align grant and NPM Guidances cycles to reduce administrative workload.

- NPMs produce exceptions-based addenda in the second year to capture any significant changes since the publication of the two-year guidances.

- EPA currently is implementing the first year of the two-year FY 2018-2019 NPM Guidances, and is considering ways to strengthen collaboration with states and tribes on priority setting.

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FY 2019 CONGRESSIONAL HEARING
WORKFORCE RESHAPING

QUESTION: Why is EPA requesting resources to reshape its workforce?

ANSWER:

- EPA is reshaping the workforce to effectively align and redistribute the workforce based on priorities, technological advances and process redesign.
- Streamlining and reorganizing is good government and important to maximizing taxpayer dollars. This includes looking at developing opportunities for individuals to retire early.
- In combination of the hiring freeze, voluntary early retirements and voluntary buy outs (VERA/VSIP), and attrition, EPA will support a gradual organizational restructuring.
- The FY 2019 President's Budget requests $31.5 million to assist with workforce support costs associated with VERA/VSIP, geographic relocations should a specific location be closed, and severance costs.
- The FY 2018 Omnibus did not include any resources for workforce reshaping and does not anticipate the Agency undertaking any large-scale adverse personnel actions or incentive programs.

BACKGROUND:

- The FY 2019 President's Budget supports EPA's programs with 12,250 FTE, which is a reduction of 2,574 FTE from the FY 2017 level (14,824 FTE).
- In accordance with the Presidential Executive Order on the Comprehensive Plan for Reorganizing the Executive Branch, in FY 2017, the Agency implemented a hiring freeze and initiated voluntary early retirements and offered voluntary buy outs (VERA/VSIP).
- Buyout costs include an incentive payment of up to $25,000 as well as accrued leave not used.
- Several reorganizations were initiated or proposed in FY 2018:
  - Consolidating the FOIA policy and procedural staff;
  - Consolidating NEPA work and shifting Environmental Justice work into the Office of Policy;
  - Combining OEI with OARM to house infrastructure support in one entity.

RESOURCES:
(Dollars in Millions)

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$0.0M	0.0	$0.0M	0.0	$25.5M	0.0	$25.5M	0.0
S&T	$0.0M	0.0	$0.0M	0.0	$6.0M	0.0	$6.0M	0.0
Total	**$0.0M**	**0.0**	**$0.0M**	**0.0**	**$31.5M**	**0.0**	**$31.5M**	**0.0**

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CERTIFICATION AND TRAINING RULE

ISSUE: Status of the Certification of Pesticide Applicators Rule, commonly referred to as Certification & Training (C&T) Rule.

TALKING POINTS:

- The EPA understands the critical role that states play in implementing the C&T program and are committed to working with our state partners to ensure a protective, yet flexible, certification and training standard.
- On March 21, 2018, the District Court for the Northern District of California ruled that EPA violated the Administrative Procedures Act by failing to provide notice and opportunity to comment before delaying the effective date of the January 4, 2017 rule. The court declared the rule effective as of March 6, 2017, its original effective date. However, the compliance date of March 6, 2020, has never changed. All states must submit new certification plans that comply with the 2017 rule to EPA by March 6, 2020.
- On December 19, 2017, EPA released a Federal Register Notice to initiate the process to revise the minimum age requirement in the C&T rule. By the end of FY 2018, EPA expects to publish a Notice of Proposed Rulemaking to solicit public input on this proposed revision to the rule.

BACKGROUND:

- Certification and training programs, approved by the EPA, are administered by the states and ensure that applicators are properly trained and competent to apply restricted use pesticides, the most acutely toxic pesticides registered by the EPA.
- In 2017, EPA met with state departments of agriculture and received public comments from various stakeholders on certain aspects of the C&T rule submitted in response to Executive Order 13771 ("Reducing Regulation and Controlling Regulatory Costs" and Executive Order 13777 ("Enforcing the Regulatory Reform Agenda"). Comments focused on the minimum age of 18 and the availability of training materials and resources to implement the rule.
- During the November 2017, Pesticide Program Dialogue Committee Meeting, the committee discussed the minimum age provision for applicators of restricted use pesticides and, like with the worker protection standard, identified the need for some increased clarity regarding the "family exemption."

Congressional Inquiries:

- Senator Udall, Harris, Booker, and Blumenthal have place a senatorial hold on the Pesticide Registration Improvement Act (PRIA) in part due to their concerns with potential changes to the C&T and Worker Protection Standard Rules. These senators and 24 others sent a letter to EPA in March 2018 expressing their concerns.

CHLORPYRIFOS

ISSUE: Status of Chlorpyrifos in the pesticide re-evaluation process.

TALKING POINTS:

- The Agency has concluded that despite several years of study and external peer review by experts on EPA's FIFRA Scientific Advisory Panel, the science addressing potential neurodevelopmental effects of chlorpyrifos requires further evaluation. As part of registration review, we will continue to review the science addressing neurodevelopmental effects of chlorpyrifos.
- EPA has several additional milestones to complete before we will be able to finalize a registration review decision for chlorpyrifos, as required by the registration review deadline of October 2022. Once completed, the revised human health risk assessment and subsequent proposed interim decision (PID) will each be published for a 60-day public comment period.

BACKGROUND:

- In September 2007, the Pesticide Action Network of North America (PANNA) and Natural Resources Defense Council (NRDC) submitted a petition seeking revocation of all tolerances (maximum residue levels in food) and cancellation of all chlorpyrifos registrations.
- On March 29, 2017, to comply with a Ninth Circuit order (from an unreasonable delay lawsuit), the EPA issued an order denying the 2007 petition requesting that the EPA revoke all tolerances and cancel all chlorpyrifos registrations under FIFRA. USDA supported this determination. In July 2017, the Ninth Circuit found that EPA's order satisfied its obligation to respond to the petition. Petitioners have brought new litigation in the 9th Circuit (*LULAC v. Pruitt*) directly challenging the March 2017 denial order.
    - In 2015, EPA issued a proposed rule to revoke all chlorpyrifos tolerances. This proposal relied, in part, on the Columbia studies.
    - In 2016, EPA continued to work on the science and developed a new risk evaluation, which also relied on the Columbia studies.
    - In addition to USDA, EPA's Scientific Advisory Panel (SAP) expressed concerns with EPA's approach. Both groups noted that the lack of access to the Columbia data created concerns and uncertainties that affected the risk assessment.
- OPP is working on a thorough review of epidemiology data before revising the human health risk assessment. If the analysis requires peer review, this could take an additional 6 months. Completing the risk assessment could take 18-24 months.
- Chlorpyrifos is an organophosphate pesticide, therefore, consistent with the FFDCA, the agency must also update the organophosphate cumulative assessment completed in 2006.
- On December 29, 2017, the National Marine Fisheries Service (NMFS) provided EPA with the final BiOp relative to the potential effects of chlorpyrifos, diazinon, and malathion on federally listed threatened or endangered species and their designated critical habitat. The

NMFS BiOp reaches "jeopardy" and "adverse modification" conclusions for 38 federally listed threatened or endangered species and 37 critical habitat units. EPA initiated informal consultation with NMFS in February 2018, and opened a public comment period on the NMFS BiOp in March 2018.

- S.1624 (Udall) would ban the use of chlorpyrifos on food. SEPW cosponsors include Sens. Booker, Cardin, Gillibrand, Markey, Merkley and Whitehouse.

CITRUS GREENING: FLORIDA CITRUS

ISSUE/TOPIC: The EPA's role in assisting Florida in combating Citrus Greening, a citrus disease currently threatening Florida's citrus industry

TALKING POINTS:

- The EPA is committed to supporting researchers, producers and state personnel in efforts to help control this devastating crop disease.

- The EPA has continuously supported the State of Florida on their FIFRA Section 18 emergency use requests by authorizing the use of oxytetracycline and streptomycin products on citrus trees for the past two growing seasons. Recently, the State of Florida submitted a third request for the re-authorization of these two antibiotic emergency exemptions as part of their 2018 growing season. The EPA approved this request on January 17, 2018.

- On December 29, 2017, the EPA also re-authorized the emergency use of clothianidin, an insecticide that can help control the insect vector of this disease. In past years, the EPA has prioritized and registered several new insecticides for citrus (e.g., flupyradifurone and cyantraniliprole) and has approved and supported a number of state registration actions from Florida under the FIFRA Section 24(c) program.

- The EPA is participating in an important research initiative run by USDA on HLB known as the Multi-Agency Coordination System (MAC), a program that funds research to develop tools to control HLB.

BACKGROUND:

- Citrus Greening, also known as Huanglongbing (HLB), is caused by a bacterial pathogen transferred from an infected plant during the feeding activities of an insect pest called the Asian citrus psyllid. The onset of symptoms from HLB occur over time and are progressive, starting with reduced fruit yield and quality, and leading eventually to the tree's death.

- HLB is considered the most serious citrus disease worldwide. It first identified in Florida in 2005. By 2007, the disease had spread through all 34 citrus-producing counties in the state.

- Florida's citrus supply is critically low and may become insufficient to sustain its juice-processing infrastructure. Orange production has declined from 226.2 million boxes in 1996-1997 to 96.7 million boxes in 2014-2015. Further declines are expected. HLB is believed to cost the Florida citrus industry approximately $300 million/year.

- The EPA issued experimental use permits (EUPs) for citrus plant-incorporated protectants in Florida and Texas through April 2018, and Citrus tristeza virus microbial pesticides in Florida through June 2019, with both EUPs investigating spinach defensin antimicrobial peptides that target the bacterial pathogen causing HLB.

- The EPA continues to coordinate with USDA/APHIS on these field tests as well as other smaller-scale biotech field tests investigating control methods for citrus greening.

- *Congressional Interests*: Senators Rubio and Nelson and the House and Senate Ag Committee staff held briefings on approving emergency use of antibiotics and other control measures. Senator Roberts sent an inquiry on emergency use of sulfoxaflor for Texas sorghum.

DICAMBA

ISSUE TOPIC: Dicamba "over the top" use on genetically engineered cotton and soybeans and subsequent crop damage in 2017.

TALKING POINTS

- Following discussions with our regulatory partners and pesticide manufacturers, EPA specified necessary label changes for dicamba "over the top" products to address issues that may explain the unacceptably high number of crop damage incidents in 2017.
- Our objective is to minimize off-target movement and reduce the number of incidents in the 2018 growing season, while recognizing the utility and benefit of dicamba-tolerant technology for weed resistance management.
- EPA will monitor the success of these changes to help inform our decision whether to allow the continued use of dicamba on dicamba-tolerant soybean and cotton beyond the 2018 growing season.

BACKGROUND

- In late 2016, EPA registered the herbicide dicamba in products designed to control weeds in cotton and soybean plants that have been genetically engineered to resist dicamba (also known as dicamba-resistant corn and soybeans). Registrations were limited to two years.
- As the 2017 growing season ramped up, reported dicamba incidents rapidly increased in frequency and geographic distribution across southern states, the Midwest and into the Dakotas, ultimately totaling over 3.6 million acres in reported damage to soybeans, though incidents also impacted other crops sensitive to dicamba.
- Label changes include Restricted Use Product designation for the products, mandatory dicamba specific training for all applicators who intend to apply these products, record keeping requirements, and several application restrictions.
- Some states reacted to crop damage reports by banning or further restricting uses of dicamba.

FY 2019 PRESS CONFERENCE & HEARINGS
ELIMINATED PROGRAM: ENDOCRINE DISRUPTORS SCREENING PROGRAM

QUESTION: How will EPA implement the Endocrine Disruptor Screening Program (EDSP) in FY 2019?

ANSWER:

- The Endocrine Disruptor Screening Program is proposed for elimination (-$7.6M / -8.9 FTE) in the FY 2019 President's Budget.

- Current activities within the Endocrine Disruptor program project have, for the most part been completed. For example, most arrays are completed. Endocrine testing is important in pesticides and toxic review.

- EPA will absorb its remaining functions within the Chemical Safety and Pollution Prevention Program using the currently available tiered testing activities.

- This program also was proposed for elimination in the FY 2018 President's Budget; however, funds were restored in the FY 2018 Omnibus.

BACKGROUND:

- The EDSP was established in 1996 under authorities contained in the Federal Food, Drug and Cosmetic Act (FFDCA) and the Safe Drinking Water Act (SDWA) amendments. The purpose of the program is to clarify and validate testing that can identify chemicals that disrupt endocrine systems resulting in adverse effects to human health or wildlife in the environment.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 Enacted v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$7.6M	8.9	$7.5M	8.9	$0.0M	0.0	-$7.6M	-8.9
Total	**$7.6M**	**8.9**	**$7.5M**	**8.9**	**$0.0M**	**0.0**	**-$7.6M**	**-8.9**

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FY 2019 PRESS HEARING CONFERENCE & HEARING
ELIMINATED PROGRAMS: POLLUTION PREVENTION PROGRAM, INCLUDING SAFER CHOICE

QUESTION: What is the funding level for EPA's Pollution Prevention (P2) Program in FY 2019?

ANSWER:

- The FY 2019 President's Budget proposes to eliminate the Pollution Prevention programs in the EPM and STAG appropriations (-$17.1M / -58.1 FTE), eliminating the Safer Choice Labeling Program, EPP guideline development for federal purchasing, P2 technical assistance centers, the Green Chemistry Challenge and the pollution prevention information clearinghouse.

- The Agency believes the goals of the program can be achieved by the private sector. Some of the best practices developed under this program will continue to be implemented by the private sector without EPA funding.

- This program also was proposed for elimination in the FY 2018 President's Budget; however, funds were restored in the FY 2018 Omnibus.

BACKGROUND:

- EPA's Safer Choice Labeling Program and the EPP Program, administered in concert with Federal procurement guidelines, are specified in Executive Order 13963 and supported by the PPA.

- Stakeholder support for this program and its sub-components is mixed.

- The FY 2019 President's Budget eliminates work in support of the Pollution Prevention Act (PPA) for the P2 programs, including both funding for the EPA-managed programs and grant funding that is dedicated for States.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
STAG	$4.8M		$4.7M		$0.0M		-$4.8M	
EPM	$12.3M	58.1	$12.2M	58.1	$0.0M	0.0	-$12.3M	-58.1
Total	**$17.1M**	**58.1**	**$16.9M**	**58.1**	**$0.0M**	**0.0**	**-$17.1M**	**-58.1**

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FY 2019 CONGRESSIONAL HEARING
ELIMINATED PROGRAM:
SCIENCE POLICY AND BIOTECHNOLOGY PROGRAM

QUESTION: What is the FY 2019 funding level for EPA's Science Policy and Biotechnology Programs in the Office of Chemical Safety and Pesticides program?

ANSWER:

- The Science Policy & Biotechnology Program is proposed for elimination (-$1.5M / -5.4 FTE) in the FY 2019 President's Budget.

- The office administered science advisory committee oversight and peer review functions required by FIFRA and TSCA. The activity will continue to be conducted within the Chemical Safety and Pollution Prevention Program.

- This program also was proposed for elimination in the FY 2018 President's Budget; however, funds were restored in the FY 2018 Omnibus.

BACKGROUND:

- The Science Policy and Biotechnology Program provided scientific and policy expertise, coordinates EPA's intra- and inter-agency efforts, and facilitates information-sharing related to core science policy issues concerning pesticides and toxic substances.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 Enacted v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$1.5M	5.4	$1.5M	5.4	$0.0M	0.0	-$1.5M	-5.4
Total	**$1.5M**	**5.4**	**$1.5M**	**5.4**	**$0.0M**	**0.0**	**-$1.5M**	**-5.4**

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EPA RECOMMENDATIONS OF SPECIFICATIONS, STANDARDS AND ECOLABELS FOR FEDERAL PROCUREMENT: LUMBER/WOOD CATEGORY

QUESTION: How will EPA comply with the FY 2018 Omnibus Report Language directive "to align its Wood/Lumber [Ecolabels for Federal Procurement] recommendation with the provisions of the USDA BioPreferred program."

ANSWER

- EPA is evaluating the Wood/Lumber recommendations.
- EPA is considering options which include aligning with the USDA BioPreferred program.

BACKGROUND:

- In 2015, the EPA issued three interim Recommendations for Environmentally Preferable Purchasing (EPP) for use in procurement by the federal government. Stakeholders expressed concerns with the Forest Stewardship Council (FSC) ecolabel recommendation for the lumber/wood category. Based on this and on-going interagency discussions, the interim recommendation for lumber/wood was removed in December 2016.
- The Recommendations of Specifications, Standards, and Ecolabels provide clear information for federal procurement officials -- and manufacturers and service providers -- about which of the many private sector standards and ecolabels should be considered to reduce business risk in supply chains and company operations. They increase US industry competitive advantage in the global marketplace, and meet federal goals for environmentally preferable procurement.
- Executive Order (EO) 13693 (issued March 19, 2015) – *Planning for Federal Sustainability in the Next Decade* – directed the EPA to issue recommendations to assist federal purchasers in identifying and procuring environmentally sustainable products, within 90 days of the June 10, 2015 publication of Implementing Instructions for the EO. The EPA issued its Interim Recommendations in September 2015, drawing from previous assessments of standards and ecolabels undertaken by other federal agencies. The FSC interim recommendation was based upon Department of Energy's GreenBuy Program.
- In 2016, the EPA convened a multi-stakeholder pilot effort to refine and apply guidelines for assessing private sector standards and ecolabels for use in federal procurement. Engaged stakeholders were supportive of assessment results in a number of product categories. However, due to a lack of consensus on how best to assess the effectiveness of forestry standards, the EPA removed the FSC interim recommendation.

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FIFRA & ENDANGERED SPECIES ACT

ISSUE: Resource and analytical challenges of meeting statutory requirements of both Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and Endangered Species Act (ESA).

TALKING POINTS:

- The agency is committed to meeting the statutory mandates under both FIFRA and ESA.

- In January 2018, EPA, the Department of the Interior and the Department of Commerce signed a Memorandum of Agreement creating a Working Group to provide recommendations for improving the ESA consultation process for pesticide registration and registration review.

- The EPA aims to streamline the process to a point where it is protective of species, timely for FIFRA registration review decisions, feasible within the agencies' resource constraints, and transparent to the public.

BACKGROUND:

- Historically, the EPA and the Services (Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS)), have been unable to reach consensus on a risk assessment approach, resulting in numerous lawsuits against the EPA and the Services.

- In an April 2013 report, the National Academy of Sciences (NAS) provided recommendations to the EPA, the Services, and USDA on a common, interagency approach for assessing the risks of pesticides to endangered species.

- EPA's biological evaluations (BEs) implementing these methods are the first step in the consultation process, not regulatory determinations. The Services may then adopt, modify, or reject EPA's conclusions when developing biological opinions (BiOps) to determine if species are jeopardized. Then, the EPA may take regulatory action to address such risks.

- Under court-ordered settlements, the Services were to issue BiOps for chlorpyrifos, diazinon, and malathion by December 2017, and for carbaryl and methomyl by December 2018. For the Services to meet these settlement dates, the EPA initiated consultation in January 2017 by issuing first ever nation-wide Biological Evaluations (BEs) for the first three pesticides.

- On December 29, 2017, the National Marine Fisheries Service (NMFS) provided EPA with the final BiOp relative to the potential effects of chlorpyrifos, diazinon, and malathion on federally listed threatened or endangered species and their designated critical habitat. The NMFS BiOp reaches "jeopardy" and "adverse modification" conclusions for 38 federally listed threatened or endangered species and 37 critical habitat units.

- NMFS sought a time extension by the court in November to allow time for public input and to work through concerns raised by EPA, FWS, and stakeholders regarding a variety of technical and methodological issues. The court did not grant the extension by the December, 2017 final BiOP due date.

- On February 21, 2018, EPA initiated informal consultation with NMFS to further the

interagency discussion on the BiOp and to conduct additional analysis, including the incorporation of use and usage data into the assessment.

- In March 2018, EPA opened a public comment period on the NMFS BiOp, comment on NMFS' jeopardy findings, Reasonable and Prudent Measures (RPMs), and Reasonable and Prudent Alternatives (RPAs).

- EPA remains in consultation with the U.S. Fish and Wildlife Service for these same three chemicals.

- While USDA does not have a formal role in the ESA consultation process between EPA and the Services, they have provided information on agricultural production practices and assistance on the appropriate use of geospatial information related to the location of agricultural crops.

- *Congressional Inquiries.* Sen. Roberts raised ESA concerns during the May 11 Senate Agriculture Committee hearing. The EPA has previously briefed the House Committees on Natural Resources and Agriculture and the Senate Committees on Agriculture and Environment and Public Works on progress towards implementing the NAS report recommendations and completion of the BiOps.

FOOD QUALITY PROTECTION ACT (FQPA) 10X SAFETY FACTOR FOR ORGANOPHOSPHATES

ISSUE: Food Quality Protection Act (FQPA) 10X safety factor retained for all organophosphate (OP) pesticides

TALKING POINTS:

- Based upon the agency's scientific analyses conducted to date, there is sufficient uncertainty in the human dose-response relationship for neurodevelopmental effects which prevents the agency from reducing or removing the statutory 10X FQPA Safety Factor for the OPs.

- The EPA conducted a systematic review of all relevant scientific data to evaluate the potential for OPs to cause neurodevelopmental effects in developing brains. The findings of this review show concern and uncertainty for this issue and, therefore, the agency retained the 10X FQPA factor. The public comment period on the position paper closed in February 2016. The agency will consider all comments received as the registration reviews for the OPs continue.

- In November 2016, CropLife America submitted a petition requesting that the EPA suspend decisions on "organophosphates and other pesticides, using an FQPA 10X safety factor based on epidemiologic studies." The EPA intends to seek public comment on CLA's petition in the near future.

BACKGROUND:

- The Federal Food, Drug, and Cosmetic Act (FFDCA) as amended by the Food Quality Protection Act (FQPA), instructs the EPA, in making its "reasonable certainty of no harm" finding, that in "the case of threshold effects, an additional ten-fold margin of safety for the pesticide chemical residue and other sources of exposure shall be applied for infants and children to take into account potential pre- and postnatal toxicity and completeness of data with respect to exposure and toxicity to infants and children."

- FFDCA further states that "the Administrator may use a different margin of safety for the pesticide chemical residue only if, on the basis of reliable data, such margin will be safe for infants and children."

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FORMALDEHYDE

BACKGROUND:

- The Formaldehyde Standards for Composite Wood Products Act (Formaldehyde Act) established limits for formaldehyde emissions from hardwood plywood, medium-density fiberboard, and particleboard sold, supplied, offered for sale, or manufactured (including imported) in the United States. Congress set the emission standards to mirror those established by the California Air Resources Board (CARB), and directed EPA to take final action to implement the Formaldehyde Act by January 1, 2013.
- On October 31, 2017, the Sierra Club and A Community Voice Louisiana filed a request for expedited summary motion requesting that the United States District Court for the Northern District of California, San Francisco Division vacate the extension of the compliance dates to December 12, 2018, and later and revert back to the original rule compliance date of December 12, 2017.

ISSUE: On July 7, 2010, the Formaldehyde Act became law. On December 12, 2016, the EPA finalized a rule to implement the law. Compliance were dates recently changed as the result of litigation.

- EPA amended the rule several times to revise compliance dates, address technical issues raised by stakeholders and enhance harmonization with the California Air Resources Board's formaldehyde regulations to facilitate smoother implementation and compliance.

- On March 13, 2018, the U.S. District Court for the Northern District of California issued an order specifying compliance dates to address litigation over the previous December 12, 2018 compliance date.

    - By June 1, 2018, regulated composite wood panels and finished products that are manufactured or imported into the United States must be certified as compliant with either the TSCA Title VI or the California Air Resources Board (CARB) Airborne Toxic Control Measures (ATCM) emission standards, by a third-party certifier.

    - Until March 22, 2019, regulated products certified as compliant with the CARB ATCM Phase II emission standards must be labeled as compliant with either the TSCA Title VI or the CARB ATCM Phase II emission standards. Regulated products manufactured in or imported into the United States after March 22, 2019 may not rely on the CARB reciprocity of 40 CFR 770.15(e) and must be certified and labeled as TSCA Title VI compliant.

    - After March 22, 2019, CARB-approved TPCs must comply with additional accreditation requirements in order to remain recognized as an EPA TSCA Title VI TPC and to continue certifying products as TSCA Title VI compliant.

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GLYPHOSATE

ISSUE/TOPIC: Status of Glyphosate in the pesticide re-evaluation process

TALKING POINTS:

- In December 2017, EPA released the draft human health and ecological risk assessments for glyphosate. The draft human health risk assessment concludes that glyphosate is not likely to be carcinogenic to humans. The agency's assessment found no risks of concern to human health when the product is used according to the pesticide label.
- The draft risk assessments also incorporate the results of endocrine screening analysis and the potential effects on monarch butterflies. The ecological risk assessment indicates that there is potential for effects on birds, mammals, and terrestrial and aquatic plants.
- The agency's scientific findings are consistent with the conclusions of science reviews by a number of other countries as well as the 2017 National Institutes of Health (NIH) Agricultural Health Survey (AHS).
- On March 2, 2018, EPA opened a 60-day public comment period on the draft risk assessments and supporting documents; it closes on April 30, 2018. EPA is scheduled to publish the proposed interim registration review decision for glyphosate in 2018.

BACKGROUND:

- The cancer re-evaluation considered the 2015 International Agency for Research on Cancer (IARC) report classifying glyphosate as a "probably carcinogenic to humans (Group 2A). Primarily all other international fora have concluded that glyphosate is unlikely to be carcinogenic.
- In December 2016, the EPA held a FIFRA Scientific Advisory Panel (SAP) meeting to discuss the carcinogenic potential of glyphosate. The SAP's March 2017 recommendations included updating the cancer classification to "not likely to be carcinogenic to humans" without the condition of "at doses relevant for human health risk assessment".
- On November 9, 2017, NIH published a review entitled "Glyphosate Use and Cancer Incidence in the Agricultural Health Study". The AHS is a prospective cohort of over 57,000 licensed pesticide applicators in Iowa and North Carolina.
    - The analysis found no association between glyphosate and the incidence of solid tumors or lymphoid malignancies. Elevated risk estimates were observed for acute myeloid leukemia among the highest exposed group; however, the analysis was limited by the low number of cases and there are no other studies available evaluating acute myeloid leukemia.
- Under a settlement agreement with the Center for Biological Diversity, the EPA is scheduled to complete a biological evaluation on glyphosate by 2020.

Congressional Inquiries: The EPA received four congressional inquiries within the last year. These inquiries came from the Environment and Public Works Committee, the Committee on Homeland Security and Governmental Affairs, the House Committee on Science, Space, and Technology, and members of Congress. The areas of Congressional interest mainly concern the cancer re-evaluation of glyphosate, including the findings of the CARC report and the EPA's timeline for glyphosate registration review. One inquiry focused on the registration of Enlist-Duo, a pesticide product which contains both glyphosate and 2,4-D, another herbicide.

INVESTMENT SUPPORTING IMPLEMENTATION OF TOXIC SUBSTANCES CONTROL ACT AMENDMENTS

QUESTION: What TSCA implementation activities will be funded through EPA's proposed FY 2019 investment?

ANSWER:

- EPA is proposing to allocate $58.6M and 238.7 FTE in FY 2019 to support work under the Chemical Risk Review and Reduction Program, which implements the TSCA amendments.

- The FY 2019 President's Budget shifts 51.6 FTE from annual appropriations to TSCA user fee funding and increases extramural funding by $7.75M to $28.7M. The requested funding is needed to support EPA's work on risk evaluations, risk management actions for PBT chemicals, new chemical reviews, CBI handling and review, along with improvements to IT systems, chemical data transparency and other key implementation activities.

BACKGROUND:

- The Frank R. Lautenberg Chemical Safety for the 21st Century Act, signed into law on June 22, 2016, made a host of transformative changes to the Toxic Substances Control Act (TSCA).

- Major improvements include a requirement to evaluate the safety of chemicals in commerce against a new risk-based safety standard, stronger authority to require chemical testing, and provisions to increase chemical data transparency, strengthen new chemical review, provide enforceable deadlines for chemical review and action, and ensure adequate funding.

- In February 2018, EPA proposed a TSCA Fees Rule which will require fees from industry to defray 25% of EPA's cost of administering Sections 4, 5, 6 and 14 as outlined in the amended statute.

- In December 2019, EPA will complete risk evaluations for the initial 10 chemicals under review and complete prioritization for another 40 chemicals so that by December 22, 2019, EPA will have designated 20 substances as Low-Priority and initiated risk evaluations on 20 High-Priority substances.

- EPA also will focus on making improvements to streamline the new chemical review process including by implementing recommendations from a Lean process review.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$59.4M	238.7	$58.9M	238.7	$58.6M	187.1	-$0.8M	-51.6
TSCA						51.6		+51.6
	$59.4M	**238.7**	**$58.9M**	**238.7**	**$58.6M**	**238.7**	**-$0.8M**	**0.0**

NEW CHEMICALS REVIEW

BACKGROUND:

- TSCA, as amended in 2016, requires EPA to make affirmative findings on new chemicals and significant new uses of existing chemicals. In November 2017, EPA released a "New Chemicals Framework" document that describes EPA's general decision framework for new chemicals, and how EPA intends to approach each of the five types of new-chemical determinations required under the statute. EPA also released a draft "Points to Consider" document to assist submitters in understanding the types of information most valuable to EPA reviewers. EPA held a public meeting in December 2017 to discuss these documents and take comment on various aspects of the new chemical review program. EPA continues to work expeditiously on improving its processes, and implementing the new requirements under TSCA with respect to its new chemicals program.

- The new chemicals program is critical to ensuring there is an innovation pipeline where new and safer chemicals can come to market replacing older technologies.

- EPA must ensure protections against unreasonable risks from intended, known and reasonably foreseen uses, as directed by the statute. Where EPA has concerns with reasonably foreseen conditions of use, but not with the intended conditions of use as described in a submission, EPA will assess whether those concerns can be addressed through significant new use rules (SNURs).

- As described in the risk evaluation rule, the identification of any reasonably foreseen conditions of use will be fact- or knowledge-specific: that is, it will be based on evidence, knowledge, or experience leading EPA to foresee conditions of use different from those described in the submission.

- For cases where EPA believes a chemical "will present" or "may present" unreasonable risks, EPA will use orders to address these concerns.

ISSUE:

- EPA recently completed a Lean review of the TSCA Section 5 new chemical review process to identify efficiencies and make improvements. We expect implementation of recommendations from this review to make the process more efficient, leading to more-timely decisions.

- EPA expects that the "Points to Consider" document will promote better submissions and support EPA reviewers in making decisions.

- EPA is also implementing a robust pre-submission consultation "program" to improve the information in PMN submissions, and to reduce EPA-submitter back-and-forth during the review period which can slow down the processing of new chemical submissions.

- EPA has committed to making final determinations within the statutorily required 90-day review period and will be tracking progress as part of our internal and external performance

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measures including in our Strategic Plan Measures, Annual Performance Goals and internal tracking and reporting to the Administrator.

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OCSPP TSCA DUST-LEAD HAZARD STANDARDS & LEAD-BASED PAINT DEFINITION

BACKGROUND:

- August 10, 2009: Petitioners request that the Administrator begin rulemaking to lower the dust-lead hazard standards from 40 $\mu g/ft^2$ to 10 $\mu g/ft^2$ or less for floors and from 250 $\mu g/ft^2$ to 100 $\mu g/ft^2$ or less for window sills, and to modify the definition of lead-based paint to reduce the lead levels from 0.5% by weight to 0.06% by weight with a corresponding reduction in the 1.0 mg/cm^2 standard.

- October 22, 2009: EPA granted the petition to begin proceedings for dust-lead hazard standards and for lead-based paint in non-target housing (while working with HUD should HUD make revisions to the definition of lead-based paint in target housing).

- August 2016: the petitioners – joined by additional citizen groups – filed a Petition for Writ of Mandamus in the Ninth Circuit.

- December 27, 2017: The Ninth Circuit granted the petition for writ of mandamus to compel EPA to issue a proposed rule to address the dust-lead hazard standards within 90 days of the date that the decision becomes final and a final rule within one year of the proposal. The court also asked the Agency to propose a rule on the definition of lead-based paint.

- March 26, 2018: U.S. Court of Appeals for the Ninth Circuit provided a 90 day extension to EPA to issue a proposed rule regarding the Agency's dust-lead hazard standards for floors and window sills, and the definition of lead-based paint. By that deadline, EPA plans to issue a proposal for public comment regarding the standards for lead in dust for floors and window sills, and the definition of lead-based paint.

ISSUE:

- In the December 27, 2017, court decisions the Majority (1) held that TSCA required EPA to identify lead-based paint hazards and (2) Interpreted this requirement to include revising those hazard levels when EPA does not dispute their insufficiency.

- The majority also held that even if TSCA did not impose such a duty, EPA had a clear duty under the Administrative Procedures Act (APA). Having found a duty to act under the APA, the majority held that EPA had unreasonably delayed.

- <u>Dust-Lead Hazard Standards</u>: The court ordered the Agency to issue a proposed rule within 90 days of the date that the decision becomes final and a final rule within one year of the proposal.
    - In order to determine if the dust-lead hazard standards need to be changed, OCSPP is continuing to gather information to understand how dust-lead levels for floors and windows relate to blood lead levels in children and the feasibility and costs associated with changing the dust-lead hazard standards.

- <u>Lead-Based Paint Definition</u>: The court also ordered the Agency to propose a rule on the definition of lead-based paint.

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- EPA is evaluating whether it should propose to modify the definition of lead-based paint.

PESTICIDE REGISTRATION IMPROVEMENT ACT REAUTHORIZATION

ISSUE/TOPIC: Impact on the EPA and pesticide registrations if PRIA 4 does not pass into law

TALKING POINTS:

- The EPA strongly supports PRIA 4 and has been working with Senate staff to respond to concerns raised in association with the hold.

- PRIA 4 brings together a coalition of divergent interests, representing seven pesticide industry trade groups and two non-governmental organizations, that permits market access of pesticides, benefitting both the pesticides and agricultural industries, while safeguarding the environment and human health.

- The expiration date of PRIA 3 was extended through fiscal year 2018 by the omnibus spending bill. If the expiration date is not further extended or if PRIA 4 is not passed by that date, pesticide applications will no longer be subject to decision time periods. The PRIA sunset provision specifies that fees be reduced in FY'19 by 70% below the levels in effect during FY2017, and that effective September 30, 2019, fee requirements are terminated.

- Removal of the "one to one" appropriations constraint, specified in PRIA 4, would allow EPA to better access and utilize the full amount of carryover funds and future collections of maintenance fees, which aligns with the President's budget goal of utilizing less appropriated funding and more fee collection revenue to support the EPA's pesticide program.

BACKGROUND:

- PRIA establishes a fee for service framework that charges applicants based on the type and complexity of the activity requested. It also holds the EPA to mandatory time frames for reviewing and making decisions on these actions.

- The PRIA 4 bill pending in the Senate extends the authorization to collect maintenance fees, at $31M/yr through FY'20. These fees supplement pesticide reevaluation activities, review of substantially similar new registrations and amendments, and review of inert clearances.

- PRIA 4 is estimated to bring in $49 million per year on average, which helps support staff plus other expenses related to pesticides registration and registration review.

- Since PRIA initially became law in March 2004, the EPA has approved over 20,000 pesticide applications, meeting or beating mandated due dates for over 98% of those actions.

- H.R. 1029 was unanimously passed in the House on March 20, 2017, extending authorization of PRIA for 7-years. On June 29, 2017, the Senate Agriculture Committee unanimously forwarded an amended bill extending authorization for 3 years. A hold placed by four senators is delaying vote by the full Senate. If PRIA is not reauthorized, effective September 30, 2019, PRIA fee requirements would be terminated.

PFAS/PFOA: GenX

BACKGROUND:

- PFAS, which includes PFOA, PFOS and GenX, are a diverse group of compounds resistant to heat, water, and oil that are persistent in the environment and resist degradation.

- North Carolina is leading a state investigation into GenX, a PFOA replacement manufactured by Chemours, that has been found in the lower Cape Fear River.

- OECA and OCSPP are investigating Chemours' compliance with the requirements of a 2009 TSCA Section 5 Consent Order. EPA is also reviewing additional toxicity data and other information submitted by the company.

- On December 4, EPA announced a cross-agency effort lead by ORD and OW to address per and polyfluoroalkyl Substances (PFAS):
    - EPA's efforts will build on the work that the Agency has done to establish non-regulatory drinking water health advisories for PFOA and PFOS.
    - EPA is also tapping regional offices to enhance cooperation with partners at the state and local levels and to leverage on-the-ground knowledge.
    - The workgroup will develop toxicity value documents, starting with GenX and PFBS, followed by 5 other PFAS (PFHxA, PFBA, PFDA, PFHxS, PFNA).
    - These documents will provide States, Tribes, EPA Programs/Regions with toxicity information to manage impacts.

ISSUE/TOPIC:

- There is general concern with PFAS substances and geographical hotspots where exposures are higher than in the general population (e.g. Parkersburg, WV; Decatur, AL; Hoosick Falls, NY), and there are a growing number of investigations nationwide including the investigation into Gen X in N.C.

- Winter 2017/Spring 2018 - OCSPP has completed an updated GenX hazard assessment and is working with Office of Water on finalizing a health assessment.

- Spring 2018 - EPA reviewing Gen X information submitted by Chemours in November 2017 and January 2018.

Cross Agency Workgroup:

- July 2018 - The workgroup expects to complete development of toxicity value documents for GenX and PFBS followed by development of toxicity value documents for five other PFAS chemicals (PFHxA, PFBA, PFDA, PFHxS, PFNA).

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POLLINATORS

ISSUE/TOPIC: Update on the EPA's Activities in Pollinator Protection

TALKING POINTS:

- The EPA has been actively involved in multiple efforts to promote and increase pollinator protection through regulatory actions, voluntary changes to pesticide use by registrants, and research programs aimed at better understanding the factors associated with declining pollinator health.

- A complex set of stressors has been associated with honey bee declines, including loss of habitat, parasites and disease, genetics, poor nutrition, bee management practices, and pesticide exposure. No single factor has been identified as the cause.

BACKGROUND:

- Pollinator protection is a priority for the EPA, given that bee pollination and insect control are essential to the success of agriculture. The EPA conducts pollinator risk assessments to support regulatory decisions for new and existing pesticides using the best available science based on a harmonized risk assessment framework, developed collaboratively with Canada's Pest Management Regulatory Authority and the California Department of Pesticide Regulation.
- In January 2016, the EPA, in collaboration with our regulatory partners in Canada and California, released for public comment our preliminary pollinator risk assessment for imidacloprid, a neonicotinoid pesticide.
- In January 2017, the EPA announced a policy that all chemicals that are acutely toxic to pollinators and are labeled for use on crops that may use contract pollination services, applications at bloom should be prohibited if the application rates exceed the EPA's level of concern. The EPA has begun implementing this policy during registration and registration review.
- In January 2017, the EPA hosted an international workshop on assessing exposure to native pollinators to determine if our conservative assessments are adequately protective.
- Lawsuits and petitions brought by the Center for Food Safety and others have been filed regarding the registration of the neonicotinoids and, more recently, over seeds that are coated with neonicotinoid pesticides.

FY 2019 PRESS CONFERENCE & HEARING
REDUCTION OF THE LEAD-BASED PAINT PROGRAM

QUESTION: How will EPA implement the Lead-Based Paint Abatement and Renovation, Repair, and Painting (RRP) Program in FY 2019?

ANSWER:

- The separate Lead Risk Reduction and Lead Categorical Grant programs are proposed for elimination (-$26.5M / -70.8 FTE) in the FY 2019 President's Budget

- EPA will continue to support firm and individual certifications for lead-based paint abatement and RRP efforts, as well as provide for operation and maintenance of the online database that supports the processing of applications for training providers, firms and individuals, through the Chemical Risk Review and Reduction program at a funding level of $0.8M, including 2 FTE.

- EPA is participating in the Federal Interagency Task Force on reducing childhood lead poisoning, recently reconvened, which is developing a federal strategy to reduce childhood lead exposure and associated health risks.

- This program also was proposed for elimination in the FY 2018 President's Budget; however, funds were restored in the FY 2018 Omnibus.

BACKGROUND:

- Recent biomonitoring data show that significant progress has been made in the continuing effort to eliminate childhood lead poisoning as a public health concern. At the same time, studies have indicated that children's health may be adversely affected even at extremely low blood lead levels.

- In FY 2019, the Lead-based paint program primarily will focus on supporting firm and individual certifications. States will no longer receive funds from the EPA to support work tailored to specific needs of individual states, and to support authorization of states to run their own lead-based paint program.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$13.3M	72.8	$13.2M	72.8	$0.8M	2.0	$12.5M	70.8
STAG	$14.0M		$13.9M		$0M		$14.0M	
Total	**$27.3M**	**72.8**	**$27.2M**	**72.8**	**$0.8M**	**2.0**	**$26.5M**	**70.8**

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REDUCTION OF TRI / RIGHT TO KNOW PROGRAM

QUESTION: What is the funding level for the Toxics Release Inventory (TRI) Program in FY 2019?

ANSWER:

- In FY 2019, the Agency will reduce funding for the TRI Program to $7.7M and 20.8 FTE which is a reduction of (-$6.6M / -22.7 FTE).

- The Agency will focus on the primary mission of the TRI program: to collect chemical release data and make this information available to the public.

- This approach continues to advance community right to know by providing local data on chemical releases and acknowledges the pollution reduction from the use of pollution prevention technologies by facilities.

BACKGROUND:

- Section 313 of the Emergency Planning and Community Right to Know Act (EPCRA) established the Toxics Release Inventory (TRI) to track the management of certain toxic chemicals. The Pollution Prevention Act (PPA) added reporting on pollution prevention activities as part of the TRI Program.

- The cuts to this program proposed in the FY 2018 President's Budget were restored in the FY 2018 Omnibus.

- In FY 2019, the Program will focus mainly on the collection of the chemical release data, data quality review, and making the data available to governments and the public, but in a more limited manner.

- Data from TRI will continue to be used to support chemical review under TSCA activities such as existing chemical prioritization and risk evaluation.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$14.3M	43.5	$14.2M	43.5	$7.7M	20.8	-$6.6M	-22.7
Total	**$14.3M**	**43.5**	**$14.2M**	**43.5**	**$7.7M**	**20.8**	**-$6.6M**	**-22.7**

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FY 2019 PRESS CONFERENCE & HEARINGS
STATUS OF UNOBLIGATED FIFRA FEE COLLECTIONS/
PRIA/FIFRA LEGISLATIVE LANGUAGE PROPOSALS

ISSUE/TOPIC: Utilization of unobligated FIFRA fee collections and PRIA/FIFRA legislative language proposals

TALKING POINTS:

- EPA plans to use a large portion of the FIFRA carryover, plus new fee collections, as outlined in the FY 2019 President's Budget. EPA would use less appropriated funding and more fee collection revenue to support the Pesticides program.

- FIFRA 4(k)(1)(2)(A) states "moneys derived from fees may not be expended in any fiscal year to the extent such moneys derived from fees would exceed money appropriated for use." This limits EPA's ability to fully utilize FIFRA fee collections because it requires EPA to match FIFRA spending with appropriated resources on a 1-to-1 basis. To increase utilization of FIFRA funding in FY 2019 would require elimination of this constraint by passage of PRIA 4 or another legislative fix.

- The FY 2019 President's Budget includes legislative language to allow the pesticides program to use fees on a broader range of ongoing activities in the program. These activities would include registration activities not currently covered by PRIA, including information technology infrastructure, outreach activities related to registration and registration review decisions, and laboratory analysis in support of pesticide decision-making.

- The majority of the FIFRA carryover will be used to support salaries for FTE and other registration review related expenses, shifting to more fee revenues and less appropriated budget.

BACKGROUND:

- The carryover balance in the FIFRA fund has been increasing over the past few years, primarily due to the 1-to-1 spending limitation restrictions in FIFRA 4(k)(1)(2)(A) and a time lag involved in recruiting qualified staff to fill key scientific and regulatory positions in the registration and registration review programs.

- If the extension to the Pesticide Registration Improvement Act (PRIA 4) passes in its current form, it will eliminate the 1-to-1 spending limitation. The limitation would be lifted from any funds currently in the FIFRA fund, not just for funds to be collected in the future. This would facilitate EPA's ability to spend down the carryover balance as well as new collections.

- On March 23rd, PRIA 3, which still includes the 1-to-1 appropriations constraint on spending maintenance fees, was extended through September 30, 2018 by the FY 18 Omnibus Bill.

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THE TOXIC SUBSTANCES CONTROL ACT (TSCA)

BACKGROUND:

- The "Frank R. Lautenberg Chemical Safety for the 21st Century Act" - a comprehensive update to the 40-year old Toxic Substances Control Act (TSCA)- offered much needed improvements to our nation's chemical regulatory system, ensuring greater health and environmental protections while providing certainty for American businesses and encouraging innovation.
- There was widespread bipartisan support for the 2016 amendments, and implementation of the new requirements remains a top priority for this Administration.
- EPA has made tremendous progress implementing the new TSCA provisions and has successfully met its Key statutory deadlines.

ISSUES:

- The EPA is implementing the numerous new and expanded requirements under TSCA, as amended by the Lautenberg Act. The agency has met critical statutory deadlines, including finalization of the framework rules and issuance of scoping documents for the first 10 risk evaluations.

- The EPA will continue to seek input from stakeholders on critical implementation elements of TSCA as amended. Since June 2016, EPA has held an unprecedented number of public meetings seeking to hear from affected entities and will continue to do so in FY 2018. Input from these meetings and other means has helped shape the agency's deliberations.

- *Recent TSCA Announcements*
    - February - proposed a TSCA User Fees Rule to help defray EPA's costs of TSCA implementation.
    - March - released a draft strategic plan to promote the development and implementation of alternative test methods and strategies to reduce, refine or replace vertebrate animal testing.
    - Two transparency and confidential business information (CBI) actions:
        - reviewing comments on options for implementing the "unique identifier" provision of TSCA
        - issued draft guidance to implement the provision of TSCA which permits EPA to share TSCA CBI with an expanded set of people and entities
- *2018 TSCA Priorities*
    - Focusing on risk evaluations for the first ten chemicals
        - Problem formulations (which Refine the scope of the risk evaluation) will be published for these ten chemicals shortly.
    - Meeting our prioritization process milestones
        - By the end of 2018, we'll need to identify 40 candidates - 20 of them high-priority and 20 of them low-priority.
    - Finishing the chemical inventory update (or active-inactive list)
    - Addressing persistent, bioaccumulative, and toxic chemicals
    - Finalizing the mercury reporting rule

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- *Legacy uses.* EPA has received some criticisms regarding exclusion of ' legacy' uses during evaluation of existing chemicals.
    - In general, EPA believes TSCA is best suited to address ongoing or prospective manufacturing, processing, or distribution of chemicals. However, EPA may consider background exposures from legacy use, associated disposal, and legacy disposal as part of an assessment of aggregate exposure or as a tool to evaluate the risk of exposures resulting from non-legacy uses.

TRICHLOROETHYLENE, METHYLENE CHLORIDE, AND N-METHYLPYRROLIDONE SECTION 6 RULES

QUESTION: How will EPA proceed with evaluating and regulating Trichloroethylene (TCE), Methylene Chloride (MC), and N-Methylpyrrolidone (NMP) pursuant to the Congressional direction in the FY 2018 Omnibus Report Language?

ANSWER:

- Under Section 6(a) of TSCA, regulation of certain uses of Trichloroethylene (TCE), Methylene Chloride (MC) and N-Methylpyrrolidone (NMP) were proposed in 2017.

- EPA also is evaluating these three chemicals as part of the group of the first ten chemicals undergoing chemical risk evaluations under the Lautenberg amendments to TSCA.

- The agency is currently considering the comments received in response to the 2017 proposals, including comments suggesting that EPA quickly finalize these actions and comments suggesting that these actions be evaluated as part of the group of the first ten chemicals undergoing initial risk evaluations under the Lautenberg amendments to TSCA.

- EPA published scoping documents for these chemicals in June 2017. These documents identify what uses of the chemicals will be evaluated and how the evaluation will be conducted. We will refine the scope of our risk evaluations with problem formulations to be published in the coming months. We plan to finalize the risk evaluations by late 2019.

BACKGROUND:

- EPA has been criticized for not finalizing these three rules, particularly in light of deaths from the use of methylene chloride, most recently in April, and October of 2017.

- FY 2018 Omnibus Report Language: "In December 2016 and January 2017, EPA proposed rules under section 6(a) to prohibit certain chemical uses that rely on risk assessments completed by the Agency in 2014 that may not comply with TSCA section 26(l)(4). Rather than continuing with those rulemakings, the Committee encourages EPA to consider those chemical uses as part of the risk evaluation process for the ten priority compounds recently designated by EPA under TSCA section 6(b)(2)(A), which include the chemicals in question."

- In January 2017 and December 2016, EPA published two proposed rules under section 6(a) of the Toxic Substances Control Act (TSCA), one to ban commercial use of TCE in vapor degreasing, and one to ban use of TCE in commercial and consumer aerosol degreasing and as a spot cleaner in dry cleaning. EPA also proposed to regulate methylene chloride and n-methylpyrrolidone in a separate 2017 proposal.

- The amendments to TSCA in Section 26(l) specifically provide authority for EPA to propose and finalize these rules using the risk assessments developed under the old law.

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TSCA RISK EVALUATION FOR ASBESTOS

TALKING POINTS:

- On December 19, 2016, EPA designated Asbestos as one of the first 10 chemical substances for which EPA is conducting a risk evaluation as required by the Toxic Substances Control Act (TSCA) to determine whether the chemical substances present an unreasonable risk of injury to health or the environment.
- Upon initiating the risk evaluation process for Asbestos, EPA began work to prepare the scope of the risk evaluation to be conducted. The scope of the risk evaluation must include the hazards, exposures, conditions of use, and the potentially exposed or susceptible subpopulations the Administrator expects to consider.
- TSCA Section 6(b)(4)(D) required the EPA to publish the scope of the risk evaluation for Asbestos within six months after the initiation (by June 19, 2017); EPA has met this statutory deadline.
- To provide the public with an additional comment period, the Agency is publishing a problem formulation for asbestos. This document will further refine the conditions of use the Agency intends to cover in the risk evaluation. The problem formulations are expected in the spring of 2018.
- EPA's focus is on asbestos currently being manufactured, imported, processed or distributed in the US.
- Many existing regulations at the Federal and State level address asbestos exposure from legacy uses.

BACKGROUND:

- On December 19, 2016, as required by the Toxic Substances Control Act (TSCA) Section 6(b)(2)(A), as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act, the EPA published an initial list of ten (10) chemical substances that are the subject of EPA evaluation to determine whether the chemical substances present an unreasonable risk of injury to health or the environment.
- Asbestos was selected as one of the 10 chemical substances included on the list published in December 2016, thereby initiating the TSCA risk evaluation process for this chemical substance.
- Accomplishments. EPA has initiated the risk evaluation process for Asbestos, including the preparation of the scope of the risk evaluation that includes the hazards, exposures, conditions of use, and the potentially exposed or susceptible subpopulations the Administrator expects to consider. This scope document was published within six months after the initiation of the risk evaluation as per TSCA Section 6(b)(4)(D), and has developed a problem formulation document to further refine the risk evaluation scope.
- Congressional Inquiries. Senators Boxer, Durbin, Feinstein, and Tester wrote in support of including asbestos on the initial list.

ISSUE:

- Asbestos is a substance of concern being addressed at both the state and federal level. Existing federal (EPA, OSHA, CDC) requirements help ensure proper management and safe disposal of asbestos-containing building material.

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- Asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP) regulations specify work practices for asbestos during demolition and renovation of certain structures, installations, and buildings. These work practice standards are designed to minimize the release of asbestos fibers during building demolition or renovation, waste packaging, transportation and disposal.
- Asbestos Hazard Emergency Response Act (AHERA) (TSCA Title II) prevents or reduces asbestos hazards in school buildings.
- Occupational Safety and Health Administration (OSHA) prevents or reduces asbestos exposure in the workplace.
- The Clean Air Act Nation Emission Standards for Hazardous Air Pollutants (NESHAPs) also has working protect requirements.
- Additional state and local regulations extend beyond the federal requirements to address asbestos in buildings.
- Generally, TSCA does not give EPA the authority to regulate the non-commercial use of items already within a home. EPA has extensive guidance for homeowners that gives them the tools and information they need to protect themselves and is available on EPA's webpage under asbestos.
- EPA included asbestos as one of the initial ten chemical risk evaluations under amended TSCA. EPA's focus is on asbestos currently being manufactured, imported, processed or distributed.

USER FEES COLLECTED UNDER THE TOXIC SUBSTANCES CONTROL ACT AMENDMENTS

QUESTION: How will EPA's Chemical Safety and Pollution Prevention Program implement collection and use of fees as authorized by the Frank R. Lautenberg Chemical Safety for the 21st Century Act in FY 2019?

ANSWER:

- EPA expects to begin collecting user fees on October 1, 2018.
- EPA is estimating annual fee receipts of approximately $20 million which will support FTE and extramural funding to help meet the requirements for new and existing chemical review and associated IT systems, chemical data transparency, and other key implementation activities.

BACKGROUND:

- In February 2018, EPA proposed a TSCA Fees Rule which would require fees from industry to defray 25% of EPA's cost of administering Sections 4, 5, 6 and 14 of the amended statute.
- The proposed rule provides a description of proposed TSCA fees and fee categories, and explains the methodology by which the proposed TSCA user fees were determined.
- EPA expects to publish a final TSCA Fees Rule before the end of FY 2018.

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WOLBACHIA AND OXITEC MOSQUITO REGISTRATIONS

ISSUE/TOPIC: Biotechnology, Pesticides, *Wolbachia*, Bacteria and Genetically Engineered Mosquitos

TALKING POINTS:

- Oxitec's genetically engineered mosquitos and MosquitoMate's *Wolbachia*-infected mosquitoes are emerging technology pesticides that could be used to combat the spread of vector-borne diseases, such as Zika.

Currently Approved Section 3 Registrations

- The EPA recently issued a geographically (2- and time limited (5 years) section 3 registration for the Wolbachia ZAP Males®, that can reduce local populations of *Aedes albopictus* (or Asian Tiger mosquito). Th registration is geographically- limited to the District of Columbia and 20 states.

Currently Approved and Pending Section 5 Experimental Use Permits (EUP)

- EPA approved an EUP for the Wolbachia WB1 strain, that can reduce local populations of *Aedes aegypti* mosquitoes. The EPA is also reviewing an /extension for the Wolbachia ZAP strain to add test sites in Florida, Hawaii, Texas, and Virginia. Data resulting from these experiments will be used to support a registration for the entire US. The EPA anticipates making a decision on this EUP in April 2018.

- EPA is reviewing an EUP amendment/extension application for the Wolbachia ZAP Males®, that can reduce local populations of *Aedes albopictus* with the intent to obtain a US-wide registration in the future.

- EPA received an application for an EUP for the Oxitec genetically engineered male mosquitoes in March 2018. Public comments are due by April 09, 2018.

BACKGROUND:

- The EPA registers biopesticides, which include alterations of mosquito species to reduce mosquito populations. Two technologies involve release of male mosquitoes incapable of producing viable offspring.

- One technique introduces *Wolbachia* bacteria, found naturally in many insect species, into male mosquitos. On November 3, 2017, EPA announced the registration of the new mosquito biopesticide, ZAP Males®, that can reduce local populations of the type of mosquito (*Aedes albopictus*, or Asian Tiger Mosquito) that can spread numerous diseases of significant human health concern, including the Zika virus. ZAP Males® are live male mosquitoes that are infected with the ZAP strain, a particular strain of the Wolbachia bacterium. Infected males mate with females already present in the environment, which then lay eggs that do not develop into adult mosquitoes.

- Another technique involves genetically engineered *Aedes aegypti* mosquitoes. This so-called "Oxitec" mosquito is now undergoing review by EPA as a pesticide for an experimental use permit in Florida and Texas. It has yet to be approved for general use. The PRIA deadline is July 25, 2018. FDA finalized guidance on 10/4/2017 on "Clarification of FDA and EPA Jurisdiction Over Mosquito-Related Products" that stated that mosquito-related products intended to function as pesticides would be regulated by EPA, including those produced through the use of biotechnology. Since the intent of the Oxitec mosquito is pesticidal, it is regulated by EPA.

- Congressional Inquiries: Sen. Inhofe submitted an inquiry to the EPA supporting approval of the "Oxitec" mosquito.

WORKER PROTECTION STANDARD (WPS)

ISSUE: Status of the Worker Protection Standard

TALKING POINTS:

- The EPA is committed to working closely with states and agricultural stakeholders to address concerns and find a flexible, workable solution within the regulatory framework of the new standard. In 2017, the EPA held meetings with the state departments of agriculture and other stakeholders to identify which aspects of the rule might need clarification and, if necessary, revision.
- EPA received public comments on certain aspects of the WPS submitted in response to Executive Order 13771 ("Reducing Regulation and Controlling Regulatory Costs" and Executive Order 13777 ("Enforcing the Regulatory Reform Agenda"), as well as some targeted suggestions for change expressed at the November 2017 Pesticide Program Dialogue Committee (PPDC) meeting.
- On December 14, 2017, EPA released a Federal Register Notice to initiate the process to revise certain requirements in the Agricultural Worker Protection Standard. By the end of FY 2018, EPA expects to publish a Notice of Proposed Rulemaking to solicit public input on proposed revisions to the WPS requirements for minimum ages, designated representatives, and application exclusion zones.

BACKGROUND:

- The Worker Protection Standard seeks to protect and reduce the risks of injury or illness to agricultural workers (those who perform hand-labor tasks in pesticide-treated crops, such as harvesting, thinning, pruning) and pesticide handlers (those who mix, load and apply pesticides), resulting from use and contact with pesticides on farms, forests, nurseries and greenhouses.
- The EPA issued the final rule in November 2015, establishing staggered compliance dates for implementation of the changes to the Agricultural Worker Protection Standard. The majority of the new requirements went into effect on January 2, 2017; the remaining requirements went into effect on January 2, 2018.
- Congressional interest from Sen Heitkamp and Senate Ag Committee hearing questions were sent from Sens. Stabenow and Leahy. Sens. Udall, Booker, Blumenthal, and Harris have placed a senatorial hold on the reauthorization of the Pesticide Registration Improvement Act in part due to concerns over potential change to the WPS and Certification of Pesticide Applicators Rule. On March 12, 2018, EPA received a letter from these four senators, also signed by 24 additional senators, expressing concern regarding any changes to the WPS and Certified of Pesticide Applicator Rule.

ZIKA

ISSUE: The Zika virus continues to pose a public health threat in the United States; however, it is no longer a public health emergency. EPA continues to maintain readiness for participation in the Federal Response to Zika as well as other federal responses to mosquito-borne diseases.

TALKING POINTS:

- At least fifteen product registrations were amended and approved in FY 2017 and early 2018 to add specific claims for mosquitoes that may carry the Zika virus. In 2016, we issued four public health emergency exemptions that were submitted by CDC.

- The EPA also helps with emergency and non-emergency communications and actions, as requested by the Department of Health and Human Services and others working to manage Zika.

BACKGROUND:

- There have been more than 37,000 cases of Zika in the U.S. territories and 5,672 cases in the contiguous United States since 2015. The US Centers for Disease Control and Prevention (CDC) reports 114 live born infants with Zika-related birth defects in the 50 states plus Washington, D.C., as well as 9 pregnancy losses with evidence of the Zika virus. In the U.S. territories, CDC reports 166 live born infants with Zika-related birth defects, as well as 8 pregnancy losses with evidence of the Zika virus.

- The Miami-Dade area of Florida, the Brownsville area of Texas, Puerto Rico, the US Virgin Islands, and American Samoa have confirmed locally acquired cases of Zika.

- Zika is a virus transmitted by two species mosquitoes that thrive in the Southeastern part of the United States and in US territories. There are additional modes of transmission, including transmission from mother to fetus, causing "Congenital Zika Syndrome."

- Regarding pesticides (including repellents), EPA expedites registrations, emergency exemptions, and registration amendments for products with Zika claims.

- The EPA supports CDC with information on integrated pest management and pesticide registration/use information.

- GAO led a study on Zika and ended it with recommendations for CDC, but none for the EPA.

- No resource changes have been requested or enacted.

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FY 2019 CONGRESSIONAL HEARING
CRIMINAL ENFORCEMENT

QUESTION: What is the Criminal Enforcement program's strategy for implementing its work given the proposed reduction in resources?

ANSWER:

- The program will focus its resources on the most egregious cases (e.g., significant human health, environmental, and deterrent impacts), balance its case load across statutes, increase coordination with the Civil Enforcement program and reduce resources for small cases that have limited deterrence value.

- In FY 2019, EPA will continue to streamline its Criminal Enforcement program and enforce environmental laws to correct noncompliance and promote cleanup of contaminated sites.

- The Agency will perform targeted investigations of violations of environmental statutes and associated violations of Title 18 of the United States Code to protect public health and the environment.

- The FY 2019 President's budget request for criminal enforcement is a reduction of $4.7M and 59.0 FTE from the FY 2017 enacted budget.

BACKGROUND:

- EPA's Criminal Enforcement program investigates and helps prosecute violations of environmental laws and associated violations of Title 18 of the United States Code such as fraud, conspiracy, false statements, and obstruction of justice.

- These efforts support environmental crime prosecutions primarily by the United States Attorneys and the Department of Justice's Environmental Crimes Section.

- In FY 2017, the conviction rate for criminal defendants was 91 percent.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$45.6M	237.6	$45.2M	237.6	$41.0M	178.6	-$4.6M	-59.0
SF	$7.2M	31.0	$7.1M	31.0	$7.1M	31.0	-$0.1M	0.0
Total	**$52.8M**	**268.6**	**$52.3M**	**268.6**	**$48.1M**	**209.6**	**-$4.7M**	**-59.0**

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FY 2019 CONGRESSIONAL HEARING
DOJ SUPERFUND SUPPORT

QUESTION: Why is the agency proposing to reduce Superfund support to the Department of Justice?

ANSWER:

- Cleaning up the nation's Superfund sites and returning them to communities for beneficial use is one of EPA's top priorities.
- In FY 2019, we are requesting up to $20.0 million in the Superfund budget for DOJ.
- EPA will work with DOJ to focus on the high priority sites, particularly those that may present an immediate risk to human health and the environment.
- The FY 2018 Omnibus continues financial support to DOJ at a comparable level.

BACKGROUND:

- Due to resource levels within the FY 2018 budget request, the EPA proposal to eliminate all funding to DOJ. However, the FY 2018 Omnibus Appropriations Act funds the Superfund appropriation at FY 2017 levels.
- In FY 2019, funds provided to DOJ will be used to negotiate and enter consent decrees with PRPs to perform remedial actions, to pursue judicial actions to compel PRP cleanup, and to pursue judicial actions to recover monies spent in cleaning up contaminated sites.

RESOURCES:
(Dollars in Millions)

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
SF	$20.1M	0.0	$20.0M	0.0	$20.0M	0.0	-$0.1M	0.0
Total	**$20.1M**	**0.0**	**$20.0M**	**0.0**	**$20.0M**	**0.0**	**-$0.1M**	**0.0**

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FY 2019 CONGRESSIONAL HEARING
ENFORCEMENT AND COMPLIANCE PROGRAMS

QUESTION: The FY 2019 President's Budget is requesting $6.14 billion for the EPA. Does the request include sufficient funds to support strong enforcement and compliance programs?

ANSWER:

- We are requesting sufficient resources to support robust enforcement and compliance assurance programs.
- EPA works in partnership with state and tribal agencies to assure compliance, protect public health and the environment, and ensure a level playing field for companies.
- Recognizing that states are the primary implementers of our nation's environmental laws, EPA will focus where it can provide the most value including matters affecting multiple states or tribes, serving as a backstop when a state or tribe does not address serious noncompliance in a timely fashion, and assisting states and tribes when they lack the capability or resources to address noncompliance.
- The FY 2019 President's Budget request reflects a reduction of $86.2 million and 600.6 FTE from the FY 2017 enacted budget. The reduction incorporates the proposed transfer of the Office of Environmental Justice and the work performed under the National Environmental Policy Act (NEPA) to the Office of Policy. The transfer accounts for $15.5 million and 80.5 FTE of the reduction.
- The FY 2018 Omnibus provided similar levels to the FY 2017 enacted level.

BACKGROUND:

- EPA carries out compliance assistance, incentives, monitoring, and enforcement activities under the Superfund program, the Environmental Crimes program, the Federal Facilities program, and the Civil/Regulatory compliance program.
- In FY 2017, EPA enforcement actions resulted in:
    - A commitment to invest nearly $20 billion in actions and equipment to control pollution;
    - The treatment, minimization, and/or proper disposal of 245 million pounds of hazardous waste; and,
    - The commitment of private parties to spend more than $1.2 billion on new site cleanup.

RESOURCES:*
(Dollars in Millions)

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$346.7M	2,003.5	$344.4M	2,003.5	$276.4M***	1,466.5**	-$70.3M	-537.0
S&T	$13.7M	75.4	$13.6M	75.4	$10.7M	47.7	-$3.0	-27.7

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STAG	$23.0M	0.0	$22.8M	0.0	$13.8M	0.0	-$9.2M	
LUST	$0.6M	3.4	$0.6M	3.4	$0.6M	2.8	$0.0M	-0.6
Oil	$2.5M	14.3	$2.5M	14.3	$2.2M	12.5	-$0.3M	-1.8
SF	$159.8M	790.1	$158.7M	790.1	$156.4M	756.6	-$3.4M	-33.5
Total	**$546.3M**	**2,886.7**	**$542.6M**	**2,886.7**	**$460.1M**	**2,286.1**	**-$86.2M**	**-600.6**

*This table includes only OECA resources.

**Does not include NEPA or Environmental Justice resources due to the transfer of these programs.

FY 2019 CONGRESSIONAL HEARING
ENVIRONMENTAL JUSTICE (EJ)

QUESTION: How does the Agency intend to support Environmental Justice work given the proposed reduction in resources?

ANSWER:

- EPA remains committed to working with low-income, minority and tribal/indigenous communities to develop solutions to the disproportionate environmental and public health challenges they face.
- Considerable progress has been made in incorporating environmental justice considerations into the Agency's core programs through the efforts of the EJ program. This progress has greatly enhanced EPA's ability to protect the health and environment of our most vulnerable communities.
- The Agency is planning to reorganize the Office of Environmental Justice from the Office of Enforcement and Compliance Assurance into the Office of Policy within the Office of the Administrator with an anticipated effective date of April 29, 2018. This will strengthen and complement the ongoing work in the Office of Policy and provide better support to communities as they work to improve health, protect the environment and grow their economies.
- In FY 2019, the Agency is requesting $2.0 million to support financial assistance to community-based organizations and technical assistance to low income, minority and tribal/indigenous populations.
- The FY 2018 Omnibus provided similar levels to the FY 2017 Enacted level of $7.1 million.

BACKGROUND:

- Local community-based non-profit organizations, tribes and tribal organizations have received more than $37 million since the EJ program's inception in 1992.
- Appropriated funds have been used to help solve environmental and public health problems in communities overburdened by pollution through the consideration of EJ issues in the daily work of EPA programs.
- This program also manages the Interagency Working Group on Environmental Justice and the National Environmental Justice Advisory Council.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$6.4M	30.4	$6.7M	36.8	$2.0M	0.0	- $4.4M	-30.4

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SF	$0.7M	4.5	$0.6M	3.5	$0.0M	0.0	- $0.7M	-4.5
Total	**$7.1M**	**34.9**	**$7.3M**	**40.3**	**$2.0M**	**0.0**	**- $5.1M**	**-34.9**

EPA ENFORCEMENT CONCERNS FROM SENATORS CARPER AND MARKEY

ISSUE: Concerns raised in several letters from both Ranking Member Carper and Senator Markey regarding EPA's enforcement program.

TALKING POINTS:

EPA Enforcement Activity

- A strong enforcement program is essential to protecting human health and the environment.
- EPA is focusing on its core mission of protecting human health and the environment and returning to the rule of law.
- In FY 2017, we saw a renewed focus on expediting site cleanup, deterring non-compliance, and returning facilities to compliance with the law, while respecting the cooperative federalism structure of our nation's environmental laws.
- Our results show a decrease in the overall number of actions. But, there was an **increase** in the dollar value of cleanup commitments at Superfund sites and an **increase** in the volume of contaminated soil and contaminated water that will be cleaned up. We also are focusing on high impact criminal cases, so the years of incarceration as a result of those cases has also **increased.** Finally, civil and criminal penalties and the value of injunctive relief **all increased** in 2017, despite a decrease in the number of cases.
- I fully acknowledge that in the Trump Administration, EPA's enforcement results reflect the years of efforts that it takes to bring significant actions. In fact, even after EPA has developed a case and refers it to the Department of Justice, it then takes on average 3.2 years to either settle the case or file a complaint. Our 2017 results are the fruition of the efforts that began in the last Administration
- Looking forward, it is my policy to defer to states that have authority, capability, and will to take enforcement action so I expect the raw number of federal enforcement actions to go down. However, that policy allows us to focus our efforts where they can be put to the best effect.
- For example, in July 2017, EPA signed a consent decree to settle potential violations related to a company's chemical risk management responsibilities. By using audits and a requirement to correct any violations found, this consent decree will lead to compliance at 28 facilities in 18 states. The penalty was below $1 million to recognize the company's voluntary actions and cooperation. So, if you are counting beans, this looks like one case with a small penalty. In reality, with this one case EPA is generating high-value results in over two dozen communities across the country.

Enforcement Activity Levels

- There is no reduction in the agency's commitment or our efforts to ensure compliance with environmental laws. We are focusing more on maximizing compliance results, rather than the number of individual actions.
- In FY 2018, the agency will focus its resources on our direct implementation responsibilities, emphasizing violations with the most significant public health and environmental impacts, while assisting states and tribes in addressing noncompliance when they lack the capability, resources, or the will to do so on their own.

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- EPA is finding ways to maximize the effectiveness of its civil enforcement actions to return facilities to compliance while also increasing the deterrent effect through criminal enforcement actions that address the most egregious cases.

Consent Decrees Lodged During the Previous Administration

- All consent decrees lodged during the prior Administration that were not entered by the end of the Administration have either been entered or remain pending until such time as the court issues an order of entry.
- EPA provided a list of all such consent decrees to Sen. Carper on _*[OCIR will insert the response date]*_.

Information Requests

- On May 31, 2017, EPA issued a memo to agency enforcement and legal management to ensure a more nationally consistent and complete accounting of federal compliance monitoring and enforcement activities. *Interim Procedures for Issuing Information Requests Pursuant to the Clean Air Act §114, Clean Water Act §308, and RCRA §3007.*
- EPA Headquarters has not disapproved any Regional requests to send information requests.

Notices of Violation

- Not all statutes include provisions for issuing a Notice of Violation (NOV) nor require the issuance of an NOV before commencing an enforcement action. Because NOVs do not exist under all statutes and programs, NOVs are not required to be entered in the Integrated Compliance Information System (ICIS), the Agency's national enforcement and compliance database.
- When appropriate, EPA continues to use NOVs as one of the many enforcement and compliance tools available to the agency.

NSR

- EPA remains committed to enforcement of the Clean Air Act and is actively engaged in developing cases and prosecuting violations.
- EPA will continue to enforce against companies that fail to perform the new source review analysis required by regulation, perform erroneous analyses, or fail to follow the applicable recordkeeping and notification requirements.

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Next Generation Enforcement

- On April 3, 2018 OECA Assistant Administrator Susan Bodine issued a memo to clarify the appropriate use of compliance tools in civil enforcement actions. A 2015 memo from the previous AA suggested that so called "innovative enforcement" tools should be considered in all settlements. "Innovative enforcement" tools are actions that are not required by law or regulation, such as additional monitoring requirements or third party audits. AA Bodine's memo withdrew the prior agency guidance, clarifying that this type of injunctive relief should be evaluated on a case by case basis. Since the job of enforcement is to ensure compliance with the law – not to create new regulatory requirements --"innovative enforcement" should not be routine.

Notice of Referrals

- On March 23, 2018, OECA Assistant Administrator Susan Bodine issued a memo asking EPA Regions to provide early notice of cases that are being referred to the Department of Justice. It is important for OECA to know about judicial referrals because OECA coordinates the management of cases with DOJ. In fact, one of OECA's strategic plan measures is to reduce the time between when a case is referred to DOJ and the time a settlement is reached or a complaint is filed. Right now, the average time period is 3.2 years. With proper management we can do better.

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FY 2019 CONGRESSIONAL HEARING
CYBER SECURITY

QUESTION: How will EPA Protect the confidentiality, availability and integrity of EPA's information assets?

ANSWER:

- The Agency will continue to maintain current and implement additional components of mandated CDM capabilities, which include improving audit capabilities, ensuring accountability, and adding protections. The Agency completed implementation of two of three Phase I and one of two Phase II capabilities in FY 2018. In addition to the licenses and O&M support costs DHS funded through FY 2018 for these phases that the Agency will incur in FY 2019, the Agency will have infrastructure costs to support O&M and implementation of Phases I, II and III capabilities. EPA will continue to build on progress made from continuous monitoring to detect and remediate the effects of Advanced Persistent Threats.
- EPA maintains a Computer Security Incident Response Capability (CSIRC), which provides for proactive and reactive measures to detect, defend, and deter computer security incidents.
- The FY 2019 President's Budget request includes an increase of $11.5M over the FY 2017 Enacted budget.•
- The FY 2018 Omnibus provides financial support for this program at a level comparable to FY 2017 Enacted.

BACKGROUND:

- This represents the portion of overall cybersecurity spending that is centrally managed by the Information Security program.

- In FY 2019, building on progress made, the agency will continue to maintain cybersecurity by:
  - Increasing the use of continuous monitoring tools and processes and Continuous Diagnostic and Mitigation (CDM) Program capabilities as mandated by DHS and OMB;
  - Providing information security awareness, training, and education; and
  - Refining incident management capabilities.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 Enacted v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$6.8M	14.3	$6.7M	14.3	$13.8M	12.8	$7.0M	-1.5
SF	$0.7M	0.0	$0.7M	0.0	$5.2M	0.0	$4.5M	0.0
Total	**$7.5M**	**14.3**	**$7.4M**	**14.3**	**$19.0M**	**12.8**	**$11.5M**	**-1.5**

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FY 2019 CONGRESSIONAL HEARING
EXCHANGE NETWORK/GRANTS

QUESTION: What is EPA providing for the Environmental Information Exchange Network, Central Data Exchange (CDX) services, and Environmental Information Exchange Network (EN) Grant Program?

ANSWER:

- In FY 2019, EPA will be able to operate the Exchange Network; provide very limited maintenance; and reduce the amounts of Exchange Network Grants
    - We anticipate the decreased investment will reduce the number of tribes and territories that will participate.
    - Reductions in resources will change the timeline for process improvements and efficiencies that come from automation and conversion to an electronic format.

- The FY 2019 President's Budget requests $13.1M for the Exchange Network and $6.4M and for Exchange Network Grants.

BACKGROUND:

- • The Exchange Network (EN) is the infrastructure and governance that supports information exchanges for EPA media programs (air, water, waste, toxics) and information sharing between EPA, states, tribes, territories and stakeholders.

- EPA develops and manages information technology services that are shared among EN partners to facilitate data exchanges and electronic reporting from industry to states resulting in significant burden reduction to the regulated community.

- The Exchange Network Grant Program supports EPA partners to establish a presence on the EN, build environmental data exchanges with EPA and other EN partners, and create electronic solutions for reducing industry reporting burden.

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RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 Enacted v. FY 2019 PB	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$16.7M	30.2	$16.6M	30.2	$11.8M	30.2	-$4.9M	0.0
SF	$1.3M	0.0	$1.3M	0	$1.3M	0.0	$0.0M	0.0
STAG	$9.6M	0.0	$9.6M	0	$6.4M	0.0	-$3.2M	0.0
Total	**$27.6M**	**30.2**	**$27.5M**	**30.2**	**$19.5M**	**30.2**	**-$8.1M**	**0.0**

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FY 2019 Budget Hearings

Policy Narrative – Federal Information Technology Acquisition Reform Act (FITARA) Implementation

The Federal Information Technology Acquisition Reform Act (FITARA) seeks to improve Federal IT management by centralizing accountability and authority for IT management in agency Chief Information Officers (CIO). At the Environmental Protection Agency, management of IT has been largely distributed among the CIO, the Regions, and the Program offices. EPA's FITARA Implementation plan has sought to balance the need for specialized local IT management with need for overall IT oversight and direction. The implementation plan calls out several objectives:

- Driving down out-year operations and maintenance costs
- Ensuring use of Agile development technologies
- Ensuring ease of migration from aging technology platforms
- Avoiding development of duplicative systems or systems available via commercial or government off-the-shelf products
- Ensuring proper leveraging of shared services and SharePoint platforms

In pursuit of these objectives, the EPA CIO has implemented several FITARA practices:

Acquisition Reviews

FITARA mandates that the CIO (or someone in the CIO chain of command) approve IT acquisitions. The CIO has issued guidance for offices seeking to procure hardware, software, system support services, system development services, and system hosting services. CIO staff review the requests, pursue follow up questions, and issue the approval/approval with conditions letters. Certain themes or conversations that have come from these reviews include:

- Ensuring use of contract clauses for security and government ownership of code
- Identifying alternative contracting strategies that better meet office needs
- Separating IT work from mission contracts, where appropriate
- Reviewing requests for storage hardware to ensure the storage requirements cannot be met by EPA's existing cloud contracts
- Encouraging use of EPA and Government strategic sourcing vehicles
- Advising on migration to Agile development methodologies

IT Portfolio Reviews

CIO authorities documented under FITARA required the introduction of IT Portfolio reviews. These reviews were designed to provide the CIO with a broader understanding of the IT portfolios in the Programs and Regions, an opportunity to share information on Office of Environmental Information (OEI) initiatives, and a forum for Programs and Regions to share their needs for IT assistance. Each year, OEI staff work with the CIO to develop objectives for the next round of IT Portfolio reviews and work collaboratively with the Programs and Regions to complete the briefing slides. This allows early identification of issues for discussion and prepares both the CIO and the Program or Region to come prepared for the must crucial conversations. Some of the key theme and findings coming from these reviews include:

- Need for strategies to drive down system costs, e.g., potential for moving to open-source platforms
- Adoptions of cloud storage to reduce storage costs

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- Avoid development costs by considering shared services or re-using government code
- Recognition of common needs for records management solutions
- Assessing local IT governance to identify best practices
- Maintaining support for Data Center consolidation and addressing performance implications (e.g., communications delays related to data traversing greater distances)
- Identifying less costly alternatives to systems that are isolated from the network due to security concerns

Focus on Digital Services

In response to a history of costly IT development efforts based on traditional "waterfall" development methodologies, FITARA promotes the use of Agile methodologies that has developers code and test applications in small phases. OEI has developed a digital services team to promote the practice of Agile development through coaching, creation of a Developer's Guild, and creation of an Innovation Fellows program.

Senior IT Leader Agenda

The implementation of FITARA has been a cooperative effort between OEI, the programs, and the Regions. Offices and the CIO have identified a corps of Senior IT Leaders (SITL), one from each program and Region, to serve as partners in implementation planning and execution. The SITLs have set themselves the following agenda for FY18:

- Application Governance: The SITLs commissioned a team to develop a process and supporting workflow tool to assess proposed IT applications to:
    - Promote efficient development of Agency Applications
    - Promote the reuse of collaborative development of software applications and services across the agency
    - Increase adoption of shared services
- IT Budget Transparency: With continued proposed reductions to EPA budgets and increased requirements in the granularity of reporting IT budgets, EPA is looking to improve its oversight and management of IT budgets through the adoption of Technology Business Management (TBM) practices and tools. OEI is taking the first steps by looking to adopt TBM for the Working Capital Fund.
- IT Roadmap: To ensure that Regions and Programs are aligning their IT resources in common direction, OEI has prepared a draft 18-month roadmap with projects and milestones related to Application/Data Platforms and Hosting, Collaboration and Content Technologies, Security Technologies; Technology and Knowledge Management, End User Technologies; and Network/Telecommunication Technologies. OEI is currently gathering feedback from the SITLs on the format, content, and projects included in the IT Roadmap. Once finalized, it will be used for budget and project planning.
- IT Workforce Assessment: FITARA requires CIOs to assess IT skill needs for both their own staff and IT staff in the programs and Regions. CIO staff are currently working with the SITLs to leverage OPM's Cybersecurity Workforce Assessment requirements to address this need. (Note: The Cybersecurity Workforce Assessment addresses a broad range of IT skill gaps, not just cybersecurity). The OPM requirements stipulate that Federal Agencies report their IT skill gaps and mission critical shortfalls starting in April 2019;

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however, SITLs recognize that there are many critical needs that need to be discussed in the near term.

EPA continues to look forward to using the CIO/SITL partnership to improve the cost- and mission-effectiveness of IT programs that further the advancement of human health and the environment.

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FY 2019 CONGRESSIONAL HEARING
CIVIL RIGHTS TITLE VI COMPLIANCE

ISSUE: How does EPA administer its Title VI Civil Rights Program?

TALKING POINTS:

- The program will prioritize resources and investments that support core civil rights statutory requirements.
- The program will focus community and stakeholder engagement activities on the highest priority civil rights issues.
- The FY 2019 President's Budget requests $1.8M and 9.0 FTE for the External Civil Rights Compliance Office, which is a decrease from the FY 2017 Enacted level of $2M and 12.0 FTE.
-

BACKGROUND:

- External Civil Rights Compliance (Title VI) functions reside in the Office of General Counsel (OGC) and include the enforcement of several civil rights laws that prohibit discrimination on the basis of race, color, national origin, disability, sex, and age, in programs or activities that receive federal financial assistance from EPA.
- In FY 2018, the program implemented an electronic case and document management system to manage the external civil rights complaint docket; refined and reissued its Case Resolution Manual; and provided guidance to recipients of EPA funds regarding their regulatory obligation to have in place a nondiscrimination program. In FY 2018, the program also developed Performance Measures to track and improve its ability to meet its regulatory timeframes for processing discrimination complaints.• • •

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 Enacted v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$2.0M	12.0	$2.0M	12.0	$1.8M	9.0	-$0.2	-3.0

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FY 2019 CONGRESSIONAL HEARING
EPA ACCESS TO ALTERNATIVE DISPUTE RESOLUTION SERVICES

QUESTION: If EPA's Alternative Dispute Resolution Law Office is disbanded, how will EPA programs and regions access Alternative Dispute Resolution (ADR) services to implement the ADR Act of 1996?

ANSWER:

- EPA programs and regions will be able to apply ADR approaches on an individual basis, without centralized support.
- Programs will continue to be able to use their own funds to support their use of ADR.
- Quick turnaround (~1 week, "just-in-time") support will be discontinued.

BACKGROUND:

- EPA uses ADR to prevent and resolve conflicts prior to engaging in formal litigation, and to support improved relationships and increase transparency with our customers, stakeholders, other federal agencies. ADR includes the provision of legal counsel, facilitation, mediation, and consensus building advice and support.
- ADRLO has historically supported programs and regions with expert assistance for the most complicated, contentious cases, typically ~ 400 per year. ADRLO conflict resolution specialists provide direct ADR services, expert counseling, coaching, customized training, evaluation of ADR effectiveness and services, and contracting and funding for high priority cases.
- In FY 2017, ADRLO provided $88.6K (EPM) and $337.5K (Superfund) to initiate projects, supplement high priority ADR services for programs and regions, provide services on a quick turnaround (<1 week) basis, and evaluate and improve ADR services, none of which will continue to be available.
- The program currently manages EPA's strategically-sourced contract for additional mediation, facilitation, public involvement, training, and organizational development support.
- ADRLO has not only provided environmental ADR, but also supports the Workplace Solutions program in the Office of Human Resources and is championing the improved use of ADR in the EEO program under the Office of Civil Rights.
- In FY 2017, the program was selected as a top 25 Innovations in American Government Awardee by the Harvard Kennedy School of Government. ([HYPERLINK "http://www.ash.harvard.edu"])

RESOURCES:
(Dollars in Millions)

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 Enacted v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$1.1M	6.8	$1.0M	5.3	$0.0M	0.0	-$1.1M	-6.8
SF	$0.6M	0.7	$0.7M	1.4	$0.0M	0.0	-$0.6M	-0.7

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Total	**$1.7M**	**7.5**	**$1.7M**	**6.7**	**$0.0M**	**0.0**	**-$1.7M**	**-7.5**

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FY 2019 CONGRESSIONAL HEARING
LEGAL SUPPORT FOR ENVIRONMENTAL PROGRAMS

ISSUE/TOPIC: How will the Office of General Counsel (OGC) provide legal support for environmental programs?

ANSWER:

- OGC will focus its legal counseling activities to the highest priority issues, and provide litigation support in judicial and administrative litigation for core agency environmental programs and agency priorities.

- The FY 2019 President's Budget requests $42.9M and 221.8 FTE for Legal Support for Environmental Programs.

- The FY 2018 Omnibus continues financial support for the program at a comparable level to FY 2017 Enacted.

BACKGROUND:

- OGC provides legal representational services, legal counseling and legal support for all of the agency's environmental activities, and this legal support is essential to the agency's core mission of protecting human health and the environment.

- The personnel assigned to this program represent essential expertise in the critical environmental fields that the agency relies on for all of its decisions and activities in furtherance of its mission.

- This program has historically provided legal representation in approximately 350 defensive judicial cases.

- Funding supports legal advice needed in the Superfund program's extensive work with Potentially Responsible Parties (PRPs) and other entities and landowners.

- This program has historically provided legal representation in approximately on 380 Superfund matters, each year.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 Enacted v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$52.9M	275.2	$49.6M	272.4	$42.3M	221.2	-$10.6M	-54.0
Superfund	$0.7M	2.2	$0.6M	2.2	$0.6M	1.4	-$0.1M	-0.8
TOTAL	**$53.6M**	**277.4**	**$50.2M**	**274.6**	**$42.9M**	**221.8**	**-$10.7M**	**-54.8**

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FY 2019 CONGRESSIONAL HEARING
PROMOTING TRANSPARENCY AND PUBLIC PARTICIPATION IN CONSENT DECREES AND SETTLEMENT AGREEMENTS

ISSUE/TOPIC: Directive on consent decrees and settlement agreements signed on October 16

TALKING POINTS:

- I am confident in the ability of OGC's attorneys to implement the directive with the same excellence, integrity, and respect that they display in all their work.

- The position of the Agency is not that we will refuse to settle cases. We just want to make sure that we are settling only those cases where we think that it is appropriate to settle.

BACKGROUND:

- On October 16, 2017, the Administrator issued the directive "Promoting Transparency and Public Participation in Consent Decrees and Settlement Agreements."
- EPA's Office of General Counsel (OGC), in conjunction with the U.S. Department of Justice (DOJ), manages defensive litigation for the Agency.
- OGC is currently managing over 380 active, non-consolidated, environmental cases.
- OGC has already begun to implement the October 16 directive.
    - OGC launched a new, updated website to post all new incoming notices of intent to sue, complaints, and petitions for review. These documents are online now for the public to view at [HYPERLINK "http://www.epa.gov/ogc"].
        - New complaints and petitions for review are displayed in a sortable chart with links to the actual source documents.
    - The new website also hosts a searchable list of consent decrees and settlement agreements that continue to bind Agency action.
- OGC has also chosen to post online a list of over 380 active, non-consolidated, environmental cases that the office is managing. This list is updated and published online quarterly.
- Per the directive, OGC has instituted processes to notify affected states and parties of recently filed environmental lawsuits against the Agency.
- Although not contemplated by the directive, OGC has chosen to open an account on Twitter to quickly disseminate litigation-related and OGC-specific information to the public in a manner consistent with today's technology.
    - The account already has over 440 followers.

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FY2019 CONGRESSIONAL HEARING
ELIMINATED PROGRAM TRADE AND GOVERNANCE

QUESTION: What is the elimination impact of the Trade and Governance Program?

ANSWER:

- The proposal of eliminating $5.8M and 18.0 FTE negatively impacts EPA's ability to participate in trade negotiations relating to the environment.
- The EPA has assisted the U.S. Trade Representative's Office in International Trade negotiations, by ensuring that agreements have strong environmental provisions so that U.S. companies are not disadvantaged.
- U.S. trade with the world has grown rapidly from $55 billion in 1963 to $4.9 trillion in 2016, according to the U.S. Census Bureau, Foreign Trade Division.[1]
- This program was proposed for elimination in the FY 2018 President's Budget; however, funds were restored in the FY 2018 Omnibus.

Background:

- The U.S. Trade Representative's Office and State Department lead on trade negotiations and related capacity building. The lead for all aspects of this program will be the U.S. Trade Representative.
- Eliminates EPA's role in trade negotiating fora, including bilateral or regional free trade agreements and World Trade Organization will be eliminated.
- Removes EPA's role in ensuring that U.S. companies do not face unfair competition due to lax environmental standards and enforcement in trading partner countries.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 ENA		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$5.9M	17.5	$5.8M	18.0	**$0.0**	**0.0**	**$-5.9M**	**-17.5**

[1] [HYPERLINK "http://www.census.gov/foreign-trade/statistics/historical/"]

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FY2019 CONGRESSIONAL
ELIMINATED PROGRAM U.S. – MEXICO BORDER PROGRAM

QUESTION: What is the proposed elimination impact of the U.S.-Mexico Border Program?

ANSWER:

- The two thousand-mile border between the United States and Mexico accounts for three of the ten poorest counties in the U.S., with an unemployment rate 250-300 percent higher than the rest of the United States. Over 430 thousand of the 14 million people in the region live in 1,200 colonias, which are unincorporated communities characterized by substandard housing and unsafe drinking water.
- Border 2020 Program invested in 'on-the-ground projects' that supported state, local, and tribal efforts to:
  - Reduce transboundary air pollution;
  - Improve access to clean and safe water;
  - Enhance the proper management of solid and hazardous waste;
  - Develop emergency preparedness to respond to chemical emergencies, and capacity to identify environmental threats along the border; and laws.
- Increase compliance with respective U.S. and Mexican environmental. The FY 2019 proposed elimination of $2.9M and 13.7 FTE for this program negatively impacts environmental protection of the U.S Mexico border in partnership with the ten (10) Border States, U.S. Tribal government, and the Government of Mexico.
- This program was proposed for elimination in the FY 2018 President's Budget; however, funds were restored in the FY 2018 omnibus.

BACKGROUND:

- Through the U.S.-Mexico Border Program, federal, state, tribal and local institutions and agencies collaboratively worked together to address transboundary pollution along the two thousand-mile border region.
- With this budget proposal, EPA is recognizing that State and local governments have technical expertise and resources to continue to advance environmental and health programs along the border without federal support.
- The budget also removes EPA's participation on the binational Border Environment Cooperation Commission (BECC) and North American Development Bank (NADB) Board of Directors.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 ENA		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$2.9M	13.7	$3.1M	14.7	**$0.0M**	**0.0**	**$-2.9M**	**-13.7**

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FY2019 CONGRESSIONAL HEARING
INTERNATIONAL PROGRAMS

QUESTION: What is the budget for International Programs?

ANSWER:

- The EPA will maintain efforts to reduce environmental threats to U.S. citizens from global contaminants impacting air, water, and food safety.
- The EPA will maintain bilateral cooperation with key strategic partners like China and Canada.
- The EPA will continue to defend and advocate on behalf of U.S. environmental and economic interests in global forums.
- *Funding*: The international programs have been reduced by $11.2M and 53.7FTE in FY 2019 from FY 2017 enacted.
    - In FY 2019, the U.S. contribution to the CEC will be $1.0M which will support continued, activities with Canada and Mexico.

BACKGROUND:

- To achieve our domestic environmental and human health objectives, the EPA will continue to engage with international partners to address international sources of pollution, as well as the impacts of pollution from the U.S. on other countries and the global environment.
- The EPA will continue technical and policy assistance for global and regional efforts to address international sources of harmful pollutants, such as mercury.
- The EPA will continue to engage with key countries to address air pollution impacting the United States and maintain a contribution to the Commission for Environmental Cooperation (CEC) which provides regional leadership to advance environmental protection in North America.
- Significant pullback of the EPA's participation in G7 and G20 efforts to establish global policies on environmental and energy issues; including reduced participation in State Department led initiatives such as the Arctic Council which impacts the State of Alaska.
- EPA's participation in certain international agreements such as the Cartagena Convention and Land-Based Sources Protocol will be reduced.
- Significant reduction in the EPA's efforts with international organizations to address global environmental problems such as air pollution, mercury and lead paint.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 ENA		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE

EPM	$15.4M	70.9	$15.3M	70.9	**$4.2**	**14.2**	**$11.2M**	**-56.7**

FY2019 CONGRESSIONAL HEARING
TRIBAL CAPACITY PROGRAM (EPM)

QUESTION: Tribal Capacity Program Budget

ANSWER:

- The EPA will maintain its core tribal program mission to implement federal environmental statutes in Indian country through activities such as:
  - Maintaining strong management of Tribal GAP grants, the EPA's largest tribal grant program;
  - Assessing and building on efficiencies in the EPA's direct implementation in Indian country, and;
  - Working across federal agencies to ensure the effective use of federal funds in Indian country.

BACKGROUND:

- Under federal environmental statutes, the EPA has responsibility for protecting human health and the environment in Indian country.
- Overall, the agency has made steady progress towards strengthening human health and environmental protection on tribal lands; however, significant work remains to ensure tribal communities receive the protections provided by implementation of federal environmental laws.
- The EPA will continue to support and promote cooperative EPA-Tribal-State partnership efforts that have successfully brought co-regulators together to implement statutory responsibilities.
- The EPA will continue to consult, though through a reduced presence, with tribes on a government-to-government basis in our decision-making.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 ENA		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$14.8M	86.3	$14.4M	87.9	**$12.6M**	**72.0**	**$-2.2M**	**-14.3**

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FY 2019 PRESS CONFERENCE & HEARINGS
TRIBAL FUNDING REDUCTIONS

QUESTION: What is the impact of the FY 2019 decrease in EPA funding to Tribal programs?

ANSWER:

- Compared to the FY 2017 Enacted Budget, funding for tribal programs is proposed to be reduced by approximately 32% (-$91.1M / -45.0 FTE), in line with EPA's overall funding reduction.
- The Tribal General Assistance Program (GAP), EPA's largest tribal program, is funded at $44.2M.
- Seven federal tribal funding programs are proposed for reduction:
  - GAP (-$20.1M)
  - Tribal Air Quality Management (-$3.9M)
  - Pollution Control Grant (106) (-$8.4M)
  - Brownfields (STAG) (-$4.0M) est.
  - RCRA: Waste Management (-$3.6M)
  - Public Water Supervision (-$2.1M)
  - Nonpoint Source (-$8.4M)
  - Puget Sound (-$7.0M)

BACKGROUND:

- Congress established GAP in 1992 to provide grants and technical assistance to tribes to cover costs of planning, developing, and establishing tribal environmental protection programs consistent with other applicable provisions of law administered by the EPA.
- These reductions and eliminations may result in fewer tribes and intertribal consortia receiving EPA assistance to support tribal efforts to address certain environmental issues.
- These reductions and eliminations may also hinder recruitment and retention of qualified environmental tribal professionals to manage tribal environmental programs.
- *Congressional Inquiries:* Senator Murkowski and the Alaska Delegation have interest in GAP funding to support solid waste service delivery activities, as demonstrated by the 2018 Omnibus language.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE
All	$283.7M	312.5	$192.6M	267.5	-$91.1M	-45.0

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FY 2019 CONGRESSIONAL HEARING
35th AVENUE SUPERFUND SITE (PROPOSED)

QUESTION: What is the status of the 35th Avenue Superfund site's residential property cleanup and proposal for inclusion on the National Priorities List (NPL)?

ANSWER:

- EPA is currently cleaning up the contaminated residential properties using Superfund removal authority.

- The site remains proposed to the NPL. EPA generally places sites on the final NPL with state support.

- A decision to withdraw the site from the proposed NPL may be considered at the conclusion of the removal actions.

BACKGROUND:

- The 35th Avenue site is comprised of contaminated residential properties in three North Birmingham neighborhoods. EPA has sampled about 1,500 of approximately 2,000 total properties, identifying more than 500 requiring remediation, with additional contaminated residential properties still being identified.

- These properties' principal contaminants, present at levels above risk-based Removal Management Levels are: lead, arsenic and polycyclic aromatic hydrocarbons. Several area industries may have potentially contributed to the contamination.

- To date, 363 residential properties have been cleaned up at an approximate cost of $17 million. The total cost to complete the removal may be more than $50 million.

- EPA proposed to add the site to the NPL in September 2014. The state of Alabama and some members of Congress expressed opposition to the site's NPL addition after EPA proposal.

- In September 2017, three individuals were indicted in United States District Court for the Northern District of Alabama Southern Division related to a conspiracy to prevent EPA from adding the site to the NPL and expanding the proposed Superfund site into Tarrant and Inglenook. EPA's Office of the Inspector General has initiated an investigation into the circumstances surrounding the indictments.

- Congressional Interest: Senator Richard Shelby (R-AL); Representatives Gary Palmer (R-AL) and Terri Sewell (D-AL). Notably, in a March 2016 letter, Senators Sessions and Shelby and Congressman Palmer alleged EPA over-reach regarding an air deposition model forming the basis for potential liability determinations; and in a May 18, 2016, a House Oversight Committee hearing on "employee misconduct," Congressman Palmer raised concerns about EPA's work in Tarrant, Alabama, mentioning affidavits he received from a citizens group with concerns about EPA employees.

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ABANDONED MINES AND MINERAL PROCESSING SITES

QUESTION: What is the universe of abandoned hardrock mining and mineral processing sites and the status of efforts to prevent sudden, uncontrolled releases?

ANSWER:

- There is no comprehensive national inventory of hardrock abandoned mine lands (AMLs) across the country, but various studies have estimated that there are between 100,000–500,000 sites; EPA has responsibility for less than 0.1 percent of the overall AML universe.

- There are approximately 500 hardrock mining and mineral processing sites in the Superfund universe. Of those sites, 139 have been proposed, finalized, or deleted from the National Priorities List or are being addressed under the Superfund Alternative Approach.

- The remaining sites are currently undergoing evaluations or site assessments, have future site assessments planned, are in the process of being transferred to the states, or have undergone or planned removal actions. The cost to remediate these sites is expected to be in the billions of dollars.

BACKGROUND:

- The United States has no overarching federal regulatory authority to oversee and regulate all aspects of hardrock mining.

- AMLs are often contaminated with toxic metals and chemicals and can pose safety, human health, and environmental risks, as well as have adverse effects on tourism and local, tribal, and state economies.

- Addressing these sites can result in costly and complex cleanup actions. The agency continues to collaborate with other federal, state, tribal, and industry partners to address the risks these sites pose.

- Prior to undertaking planned removal or remedial activities at abandoned hardrock mining and mineral processing sites that may pose fluid hazard risks, EPA regional offices are required to consult with Headquarters and undergo a technical review of the planned activities. In addition, cleanup activities at these sites also require management oversight, and development of contingency, notification and emergency action plans.

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ADDRESSING EXTREME WEATHER AT SUPERFUND SITES

QUESTION: What is EPA doing to address extreme weather events at Superfund sites?

ANSWER:

- The Agency is continuing its evaluation of impacts from the 2017 hurricane season which presented many unique challenges, and during a short timeframe.

- The Agency recently established a National Incident Management Assistance Team (IMAT) which complements the FEMA and USCG IMATs to quickly mobilize during the initial phase of an emergency or disaster response and provides support to regions.

- In each of the hurricane responses, EPA deployed immediately to assist the existing agency and federal response structure. EPA was able to quickly organize on the ground to accomplish site assessments both pre and post hurricanes and id potential vulnerabilities.

- Extreme weather vulnerability analyses and adaptation planning are integrated throughout the Superfund process.

- The existing Superfund remedial process for planning and implementing site cleanups provides structure to consider both potential extreme weather impacts and to take action, as warranted, to increase remedy resilience.

- Remedial designs provide an opportunity to consider site vulnerabilities and measures to help maximize the remedy resilience.

- In addition, "five-year reviews" at sites evaluate protectiveness of existing remedies including "any other information has come to light that could call into question the protectiveness of the remedy."

BACKGROUND:

- EPA's Superfund Program previously conducted a site portfolio-level screening analysis of potential vulnerabilities to determine the level and nature of response required to potential impacts of extreme weather (2012).

- Based on the findings of the analysis, the Agency determined that the existing regulatory framework included the authorities and guidance needed to address the challenge, and no changes were needed.

- CERCLA and the National Contingency Plan already provide the foundational basis for consideration of potential extreme weather impacts at Superfund sites (Long Term Protectiveness/Short Term Protectiveness).

- The OIG recently initiated a research project on hurricane preparedness and the GAO also initiated an investigation last month.

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ANACONDA COPPER MINE SITE

QUESTION: What is EPA doing to engage the local tribes following the deferral at the Anaconda Copper Mine site?

ANSWER:

- Local tribes affected by the Anaconda Copper Mine site have raised objections about the consultation process used in the deferral and are reviewing their respective draft EPA/Nevada/tribal memorandums of understanding.

- EPA is conducting post-consultation follow up with the tribal chairmen to document the Agency's consultation and coordination activities and to explain how EPA considered tribal input in the deferral action.

BACKGROUND:

- EPA signed a formal deferral agreement with the State of Nevada, after determining the state meets the regulatory requirements for deferral. Under deferral, the state is required to achieve the same level of environmental protection as EPA under federal law.

- Under the terms of its agreement with the state, Atlantic Richfield Company (ARC) will conduct the cleanup work under state oversight and will pay for site work. States also will be contributing. Construction of the first remedial action is expected to begin in late 2019 and will be completed in 2024.

- The Anaconda Copper Mine site covers more than 3,400 acres in the Mason Valley, near the city of Yerington, in Lyon County, approximately 65 miles southeast of Reno. The site was proposed to be listed on the National Priorities List in 2016.

- Past Anaconda (ARC is its corporate successor) operations and, separately, Arimetco (now bankrupt), contaminated the mine site, which consists of private land, Bureau of Land Management (BLM) land, and tribal land.

- The immediate hazard is from Arimetco tailings heaps that continue to leach acidic fluids high in uranium and other metals into collection ponds, which will reach capacity and overflow by 2020. If the ponds were to overflow, they would contribute additional contamination to groundwater resources currently used for drinking water, agriculture, and tribal uses.

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FY 2019 CONGRESSIONAL HEARING
BF GOODRICH SUPERFUND SITE

QUESTION: What is the status of BF Goodrich?

ANSWER:

- EPA issued a Proposed Plan to clean up the Site in November 2017 totaling $244 million. The costs for the proposed alternative include: $143 million to excavate non-aqueous phase liquids (NAPL) beneath the river; $84.4 million for a subsurface containment wall; and $16 million for groundwater cleanup beneath the river.

- Over 200 pages of comments were received, primarily from the PRPs, mainly focusing on the NAPL excavation beneath the river. NAPL is a term used to describe contaminants in a liquid solution that do not dissolve in or easily mix with water and flow separately from groundwater.

- In response to these comments, EPA is currently evaluating other cost-effective alternatives to address the NAPL beneath the river. If EPA revises the proposed alternative to address the NAPL beneath the river, the EPA will publish an Amended Proposed Plan for public review and comment.

BACKGROUND:

- The Site is the location of multiple active chemical plants that have operated along the Tennessee River since the 1950s.

- Early operations lead to the contamination of soil and groundwater beneath the chemical plants, the floodplain along the river and, both in and beneath the river. EPA estimates approximately 3.5 million cubic yards of soil is contaminated by NAPL.

- The potentially responsible parties for the site are financially viable and all federal expenditures are offset through cost recovery.

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CALIFORNIA WILDFIRES

QUESTION: What has been EPA's response to the California Wildfires?

ANSWER:

- EPA has now completed 100% of the household hazardous waste (HHW) collection, a total of 6,588 parcels.

- As of March 20, 2018, EPA has completed asbestos cleanup on 703 parcels. EPA is coordinating with the USACE on this task. This effort is still ongoing.

- EPA continues to provide support to FEMA and state and local partners in the ongoing response following devastating fires in Northern California. EPA expects to complete response and recovery efforts related to the California wildfires this spring.

BACKGROUND:

- On October 19, 2017, EPA received a mission assignment from the Federal Emergency Management Agency to survey and collect HHW in Napa and Sonoma counties following multiple fires in Northern California. Additionally, FEMA directed EPA to assess and remove asbestos from parcels in four California counties – Lake, Mendocino, Napa and Sonoma.

- From mid-October to mid-November, EPA attended 25 community meetings, ranging from large events with over 1,200 participants to neighborhood meetings of fewer than 100 people.

- At the height of its response, EPA deployed 296 employees and contractors to the field, from seven different EPA regional offices and the U.S. Coast Guard.

- On December 17, 2017, following the Southern California wildfires, the California Office of Emergency Services requested EPA to assist the Department of Toxic Substance Control to establish a data management and collection system for household hazardous waste and potential asbestos-containing materials.

- On January 13, 2018, EPA's Acting Region 9 Administrator joined the FEMA Regional Administrator, the Director of California Office of Emergency Services (Cal OES), and the US Army Corps of Engineers at a town hall to discuss the response and rebuilding efforts following the wildfires. The meeting is being hosted by CA State Senator Mike McGuire, and was attended by various state and local elected officials, including Congressmen Mike Thompson and Jared Huffman.

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CERCLA/EPCRA REPORTING REQUIREMENTS FOR FARMS

QUESTION: What is the status of the CERCLA/EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms?

ANSWER:

- On March 23, 2018, the Consolidated Appropriations Act, 2018 (Omnibus Bill), exempted the reporting of air emissions from animal waste at a farm under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

- The D.C. Circuit Court of Appeals issued its mandate vacating the 2008 final rule on May 2, 2018. Farms will remain exempt from the CERCLA reporting requirements, as a result of the Omnibus Bill.

- EPA interprets the EPCRA statute to exclude farms that use substances in "routine agricultural operations" from reporting under the Emergency Planning and Community Right-to-Know Act (EPCRA) section 304. This encompasses routine operations at farms, animal feeding operations, nurseries, other horticultural operations and aquaculture.

BACKGROUND:

- In 2008, EPA published a final rule that exempted farms from reporting air releases of hazardous substances from animal waste. This final rule applied to reporting under section 103 of CERCLA, and section 304 of EPCRA. For EPCRA reporting, the rule exempted farms that contained fewer than a certain number of animals from reporting.

- Citizen groups challenged the 2008 final rule, and on April 11, 2017, the rule was vacated by the D.C. Circuit Court of Appeals.

- The D.C. Circuit has stayed issuance of a mandate vacating the 2008 final rule until May 1, 2018. Once the court issues the mandate, the reporting requirements will go back into effect for air releases of hazardous substances from animal waste at farms.

- The FARM Act, passed by Congress as part of the Omnibus Bill on March 23, 2018, exempts the reporting of "air emissions from animal waste at a farm" under CERCLA.

- EPA is revising the CERCLA/EPCRA guidance for reporting air releases from animal waste at farms and the frequently asked questions (FAQs) at [HYPERLINK "http://www.epa.gov/animalwaste"] to reflect the recent passage of the FARM Act.

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FY 2019 CONGRESSIONAL HEARING
CTS OF ASHEVILLE, INC.

QUESTION: What is the status of the CTS of Asheville, Inc., National Priorities List site?

ANSWER:

- EPA has implemented a series of removal actions to provide clean drinking water to residents within the site's one-mile radius and to mitigate trichloroethene (TCE) vapors in residences emanating from the site.

- The electric resistance heating component of the remedy is on schedule. EPA anticipates it will begin operating in mid-May and be completed by October/November 2018. The in-situ chemical oxidation has been tested on a pilot scale and EPA expects its full-scale implementation in calendar year 2019.

- In response to community input provided to EPA at a November 2017 public meeting, the Agency installed new site signage and briefed the community on safety measures to be implemented during the interim action's construction and operation.

BACKGROUND:

- The CTS-Asheville site, located in Asheville, North Carolina, has groundwater contaminated with TCE.

- In 2016, the Office of Inspector General issued a final audit report, "Progress Made, but Improvements Needed at CTS of Asheville Superfund Site in North Carolina to Advance Cleanup Pace and Reduce Potential Exposure;" EPA resolved the report's recommendations in 2017 in a timely fashion.

- The site's responsible parties are performing a source-control interim action using a combination of electric resistance heating and in-situ chemical oxidation at an estimated cost of $9 million.

- The final sitewide remedy will address any remaining unacceptable risks to human health and the environment posed by TCE in the subsurface not addressed by the interim action.

- Congressional Interest: In February 2018, EPA sponsored a site tour with representatives from the offices of U.S. Congressmen Meadows and McHenry and U.S. Senators Tillis and Burr.

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EPA HURRICANE RESPONSE ACTIVITIES

QUESTION: What has been EPA's response to Hurricanes Harvey, Irma, and Maria?

ANSWER:

- EPA continues to work with local, state and federal officials to address the human health and environmental impacts in the aftermath of Hurricanes Harvey, Irma and Maria to provide support to people and communities affected by the storms.

- EPA will utilize the supplemental funding received as part of the recently passed Omnibus to address ongoing concerns and needs resulting from impacts of the hurricanes.

BACKGROUND:

- To date, EPA has collected for proper disposal more than 130,000 containers, tanks and drums of potentially hazardous substances from PR and USVI. In USVI, EPA has already shipped off island or readied and staged approximately 98,000 pounds of medical waste and medical sharps for transport and disposal on the mainland.

- EPA has worked closely with both the USVI and PR to conduct drinking water sampling, and to assess and ensure that appropriate repairs or alternative power is provided for drinking water and wastewater systems. EPA has partnered with non-governmental organizations (NGOs) to assist the estimated 76,000 residents in over 200 communities that rely on water systems not operated by Puerto Rico Aqueduct and Sewer Authority. EPA and the NGOs are working to address infrastructure repairs and supplying alternative power, including solar, for a portion of the 237 assessed systems.

- EPA coordinated with the State of Florida to: monitor the status of more than 1,600 Community Drinking Water Systems and over 2,000 wastewater systems; assess more than 200 chemical and oil storage facilities; collect a total of 722 land-based orphan containers (drums, oil containers, and propane tanks); remove 146 sunken vessels within EPA's area of responsibility; and visit 551 landfills.

- EPA worked with the State of Texas and local officials to assess drinking water and waste water systems; retrieve loose containers, and safely dispose of over 20 million cubic yards of debris. All EPA approved waivers for fuels and enforcement discretion for petroleum distribution facilities, gas storage, and bulk fuel terminals, to help address the emergency circumstances in Texas from Hurricanes Harvey and Irma have expired. EPA worked with the Texas Water Development Board and FEMA to streamline reviews and expand flexibilities for State Revolving Fund interim/bridge infrastructure funding for impacted communities.

- In Texas, the San Jacinto River Waste Pits site required follow up following Hurricane Harvey. EPA's dive team confirmed the protective cap was damaged and the underlying waste material was exposed with elevated dioxins. As part of the on-going assessment of the waste pits, the PRPs completed the assessment of scouring the river and found that the cap is not leaking. Repairs to add armored rock to the cap were completed shortly after the sampling was conducted. EPA has posted quality assured data collected by the PRPs.

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GRENADA MANUFACTURING, LLC

QUESTION: What is the status of EPA's cleanup of the Grenada Manufacturing, LLC site?

ANSWER:

- EPA proposed the site under the name of Rockwell International Wheel & Trim to the National Priorities List (NPL) in January 2018. NPL listing enables EPA to use CERCLA authorities and processes to advance the cleanup of the site, including engaging additional responsible parties and comprehensively addressing adjacent properties that are impacted by site-related contaminants.

- EPA believes that placing this site on the NPL is the best means to accomplish a comprehensive investigation and cleanup of the facility, nearby dump sites, and contaminated groundwater.

- EPA will continue an active community outreach program for the Eastern Heights neighborhood and for employees of the current operator of the facility, Grenada Stamping, through an EPA website as well as regular fact sheets that are mailed to over 200 residents, local leaders and elected officials.

BACKGROUND:

- EPA is working with the RCRA permittee, Grenada Manufacturing, LLC, and Meritor, Inc. (the company funding the cleanup under the permit) to address both on-site and off-site groundwater contaminated with Tri-chloroethene (TCE); to monitor residences in the Eastern Heights neighborhood for vapor intrusion (VI) concerns and require mitigation, if necessary; and to evaluate ongoing measures and alternative actions to prevent migration of contaminants into Riverdale Creek.

- In October 2016, a VI study was initiated at the main plant building of the facility. TCE was found to be above health-based benchmarks in indoor air for sensitive sub-populations (women of childbearing age). EPA instructed the permittee to initiate measures in January 2017 to lower the levels of TCE in indoor air and to develop a long-term solution to VI concerns in the building. In August 2017, a sub-slab depressurization system (SSDS) was installed, and has been effective in lowering indoor air concentrations of TCE. It is currently being operated under a Superfund removal action.

- In September 2015, a VI study was initiated in the Eastern Heights neighborhood. Several rounds of VI sampling, in a total of 23 homes, have subsequently taken place, and no results to date indicate a complete vapor intrusion pathway in any of the homes sampled. Additional actions are well underway to remediate the most contaminated groundwater at the site and to address discharges to Riverdale Creek.

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FY 2019 CONGRESSIONAL HEARING
HANFORD RESERVATION

QUESTION: What is the status of the Hanford cleanup?

ANSWER:

- EPA continues its oversight role at Hanford and collaboration with Department of Energy (DOE) and the State of Washington to address the cleanup at this site.

- The Hanford 100 Area D/H final Record of Decision (ROD) is expected to be signed in fall of 2018 following the conclusion of dialogue to address concerns expressed by the Yakama Nation. The total cost for this ROD is estimated to exceed $50 million, and will be signed by the Administrator.

BACKGROUND:

- Hanford was listed on the National Priorities List (NPL) in 1988. Four NPL sites were initially listed (Hanford 100 Area, Hanford 200 Area, Hanford 300 Area and Hanford 1100 Area); one site (Hanford 1100 Area) was deleted in 1998. Hanford also has a RCRA facility permit.

- The site is 586 square miles and consists of more than 2,000 waste sites, 522 facilities and nine plutonium production reactors, four groundwater cleanup Operable Units, and 56 million gallons of highly radioactive liquid waste from 177 underground storage tanks. Site activities involve building demolition and soil cleanup.

- EPA Region 10, DOE, and the State of Washington Department of Ecology's Nuclear Waste Program have worked together on the Hanford cleanup for over 25 years. DOE is the lead federal agency; EPA and the State of Washington are co-regulators. The Hanford Reservation site cleanup efforts are performed under a Tri-Party Agreement (Federal Facility Agreement) among DOE, EPA and the state. The agreement defines and ranks the CERCLA and RCRA cleanup commitments, establishes responsibilities, provides a basis for budgets, and reflects a goal of achieving regulatory compliance with enforceable milestones.

- Projected construction completion is expected in 2072 and final use is mixed with industrial, recreational and possible residential.

- A waste storage tunnel collapse occurred at the Plutonium Uranium Extraction Plant in May 2017. Tunnel 1 was stabilized using engineered grout in November 2017 and a similar approach will be used in Tunnel 2 during 2018. Placement of engineered grout is the alternative recommended by an independent panel of experts.

- In December 2017, multiple occasions of contamination spread (plutonium and americium) associated with demolition of the Plutonium Finishing Plant resulted in a stop work order. DOE's contractor is preparing a proposal for completing the work safely and DOE is assembling an expert panel to review it.

- Congressional interest has been high at the site due to the DOE annual budget of over $2 billion. The site's cost to complete is estimated at $100 billion.

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FY 2019 CONGRESSIONAL HEARING
HARDROCK MINING FINANCIAL RESPONSIBILITY

QUESTION: What is the status of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) §108(b) hard rock mining financial responsibility rule?

ANSWER:

- On December 1, 2017, EPA Administrator Pruitt signed a notice announcing EPA's decision not to issue final financial responsibility requirements for the hardrock mining industry under section 108(b) of CERCLA.

- EPA did not to issue requirements because risks associated with these facilities' operations are addressed by existing federal and state programs and industry practices.

- This decision provides assurance to state regulators who were concerned that the proposed requirements would be disruptive of state mining programs.

- This decision does not affect EPA's authority to take appropriate CERCLA response actions.

BACKGROUND:

- EPA was under a court order to take final action on the hardrock mining proposed rule by December 1, 2017.

- EPA published proposed requirements for financial assurance for hardrock mining facilities under section 108(b) on January 11, 2017. Including an extension, the public comment period closed on July 11, 2017.

- Stakeholders including Congress, governors, state environmental and mining regulators, federal land management agencies, the financial industry, and the mining industry strongly objected to the proposal as being unnecessary due to current mining regulations and practices.

- Critics also objected that the proposed rule would cost the mining industry between $111 to $171 million annually, but would save taxpayers significantly less - between $15 to $15.5 million annually in avoided cleanup costs.

- EPA remains subject to a court order requiring it to take actions relating to CERCLA Section 108(b) financial responsibility requirements for the chemical manufacturing; petroleum and coal products manufacturing; and electric power generation, transmission, and distribution industries.

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HAZARD RANKING SYSTEM REVISION

QUESTION: What is the impact of the Hazard Ranking System (HRS) revision that allows for the evaluation National Priorities List (NPL) sites with subsurface intrusion (SsI)?

ANSWER:

- EPA does not plan to do a systematic re-evaluation of old sites based on the new rule.
- While EPA does not expect a change in the number of NPL site additions due to the HRS revisions, there may be a minor realignment of resources to address sites where SsI poses risks to human health.
- In January 2018, EPA proposed to add the first site to the NPL based on the SsI pathway, the Rockwell International Wheel & Trim site in Grenada, Mississippi.

BACKGROUND:

- SsI, which includes vapor intrusion, occurs when contaminated soil and groundwater containing hazardous chemicals vaporize and seep into the indoor air of nearby buildings.
- The HRS is EPA's principal mechanism for placing sites on the NPL.
- Current scientific evidence shows that exposure to contamination through the SsI pathway poses a threat to human health; addition of the SsI component to the HRS means that sites previously not eligible for the NPL based on other pathways could be eligible for the NPL.
- The HRS revision improves EPA's ability to identify priority sites for further investigation and enhances EPA's ability to determine the most appropriate state or federal authority to address sites.
- A Government Accountability Office (GAO) report in May 2010 recommended that EPA consider vapor intrusion as part of the Superfund NPL process. States also supported the consideration of vapor intrusion as part of the Superfund NPL process.
- Effective May 22, 2017, EPA added the SsI component to the HRS.

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FY 19 CONGRESSIONAL HEARING
HOUSATONIC "REST-OF-RIVER" CLEANUP

QUESTION: What is the status of the Housatonic "Rest-of-River" cleanup?

ANSWER:

- EPA, Massachusetts, and Connecticut have committed to a long-term cooperative effort to support and implement the Rest-of-River cleanup plan. EPA sees an organized and on-going partnership with the states as essential to the final remedy's successful implementation.

- EPA is working to address the EPA's Environmental Appeals Board (EAB) remanded permit issues. Simultaneously, EPA is exploring different approaches, including mediation, to expedite cleanup in a manner satisfactory to all parties.

- During the appeals process, GE is implementing several permit requirements not subject to appeal.

BACKGROUND:

- From 1932-1977, GE used polychlorinated biphenyls (PCBs) at its Pittsfield, Massachusetts, facility, resulting in PCB soil contamination at and near the facility, and in the adjacent Housatonic River's sediments and soil. The Housatonic River flows from north of Pittsfield, Massachusetts, through Massachusetts into Connecticut, emptying into the Long Island Sound.

- The "Rest-of-River" cleanup plan focuses on a 10.5-mile section of river, associated bank soils and floodplains, and Woods Pond near Lenox, Massachusetts, all of which are contaminated with PCBs. The plan includes capping/containment, removal of roughly one million cubic yards of sediment/soil, offsite disposal and monitored natural recovery at an estimated total cost of $613 million.

- In October 2016, EPA, with support from Massachusetts and Connecticut, issued its final RCRA permit, which included selection of the "Rest-of-River" cleanup remedy. The remedy obligates GE, under an existing consent decree, to design, construct, operate, and maintain the PCB contamination remedy as a CERCLA cleanup.

- EAB issued a decision on GE's (and several other parties') appeal of the permit. The ruling was in EPA's favor on all cleanup issues, except for two permit issues, which the EAB remanded. One remanded issue is regarding off-site disposal, an approach state and local governments strongly favor but GE does not (the issue was a critical part of GE's appeal).

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FY 2019 CONGRESSIONAL HEARING
HUDSON RIVER SUPERFUND SITE

QUESTION: What is EPA's involvement with the Hudson River Superfund site?

ANSWER:

- EPA is currently reviewing additional sediment data collected by the New York Department of Environmental Conservation (DEC) in 2017. The review is expected to be completed in Spring of 2018. EPA is waiting to make decisions on both the Second Five Year Review (FYR) report and a complete response to General Electric's (GE) request for the Certification of Completion of Remedial Action until the review is complete.

- EPA is requiring GE to investigate polychlorinated biphenyls (PCB) contamination in the floodplains along the river (more than 80 miles of flood plains and 3000 properties).

BACKGROUND:

- For a 30-year period GE discharged an estimated 1.3 million pounds of PCBs into the Hudson River. In 1984, the EPA added 200 miles of river to the National Priorities List. At a reported cost of $1.7 billion, GE removed 310,000 lbs. of PCBs – twice the volume originally projected, and 72% of the total mass in the river from Fort Edwards, NY to Troy, NY (the upper Hudson River).

- EPA published the draft Second FYR report on June 1, 2017, and received over a thousand comments. The draft FYR found the implemented remedy is not yet protective of human health and the environment. In the interim, fish advisories and restrictions are in place to minimize, to the extent possible, the potential for people to consume fish. Dredging ended in late 2015, so only limited post-dredging data are available for this FYR. However, the fish, sediment and water data available to date are consistent with the predictions made in 2002.

- Data indicate that PCBs in fish is already being lowered. EPA expects that in 10-15 years, one fish meal every 2 months will be safe to consume. To be clean enough to eat fish once a week, will take more than 55 years. More dredging would only accelerate this by a few years.

- Pursuant to the 2006 Consent Decree, upon completion of the construction work (dredging, capping, habitat reconstruction, and treatment facility decommissioning), GE requested from EPA a Certification of Completion of Remedial Action on January 3, 2017.

- This cleanup generated 500 jobs while ongoing and created a significant development infrastructure along the river in Fort Edward. The local community is eager to use this for redevelopment and new jobs, which will not be impacted by the remaining volume of PCBs.

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FY 2019 CONGRESSIONAL HEARING
HUNTERS POINT SHIPYARD

QUESTION: What is the status of the Hunters Point cleanup and redevelopment?

ANSWER:

- In our oversight role, EPA is working closely with the Navy and the State of California to complete cleanup as quickly as possible and ensure that the former Shipyard is ready for reuse. EPA has formed a team which includes nationally-recognized technical experts who are carefully reviewing the Navy's work.
- Redevelopment has been delayed at least a year due to falsification of radiation sampling data by Navy contractors. The Navy has committed to resample all locations where the contractor did radiological work and, if necessary, perform additional cleanup.

BACKGROUND:

- The 934-acre Hunters Point Naval Shipyard is in San Francisco, CA. It is the largest and most complex Navy Superfund cleanup nationwide. Cleanup will cost over $1 billion overall.
- HPNS was placed on the Superfund National Priorities List in 1989. The site was home to a shipyard from 1945-1974 and the Naval Radiological Defense Laboratory from 1948-1960. From 1976-1986, the Shipyard was leased for commercial ship building. It was closed under Base Realignment and Closure program in 1991.
- The Navy is the lead agency responsible for investigation and cleanup. EPA and the State of California oversee and enforce Navy compliance with federal, state, and local requirements to ensure that the cleanup protects human health and the environment.
- San Francisco is redeveloping the site and nearby Candlestick Park. It plans to eventually create over 10,000 homes, 10,000 jobs, R&D space, and parks. The Navy has already transferred four parcels to San Francisco for redevelopment and residents have moved into hundreds of units. Transfers of most of the remaining nine parcels are planned to occur over the next five years.
- EPA has evaluated the allegations made against the Navy's contractor, Tetra Tech EC Inc., and has concluded that the multiple layers of oversight in place have prevented and will continue to prevent residents and workers from being exposed to radiological contamination above health-based standards. Independent monitoring has shown no exceedances of health-based standards.
- The public is expressing concerns about Tetra Tech's. (not just their EC subsidiary) radiological work at other sites nationwide, including abandoned uranium mines within the Navajo Nation, DOE's Los Alamos National Laboratory, and the Westlake Landfill Superfund site near St. Louis, MO.

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LEAD EXPOSURES AT SUPERFUND SITES

QUESTION: What is EPA doing to reduce the exposure of children to lead at Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) sites.

ANSWER:

- EPA has multiple programs that address human health risks from lead exposure, including drinking water standards; ambient air quality standards; and regulations addressing lead in paint, dust and soil.

- EPA's Superfund soil cleanups are one part of addressing childhood lead poisoning. In December 2016, EPA issued Directive 9200.2-167, *Updated Scientific Consideration for Lead in Soil Cleanups*, which highlights the current science and risk assessment tools that Regions may consider when implementing the 1994 EPA Directive 9355.4-12, *Revised Interim Soil Lead Guidance for CERCLA Sites and RCRA Corrective Action Facilities.*

BACKGROUND:

- EPA's Office of Land and Emergency Management programs are responsible for cleaning up areas with lead contaminated soil (and sometimes groundwater) that present an unacceptable human health or ecological risk due to an environmental release. EPA typically gathers site specific data that reflect the exposure conditions of the site and the community, and these are incorporated into the determination of appropriate and protective cleanup levels.
- In June 2012, the Federal Advisory Committee on Childhood Lead Poisoning Prevention to the Center for Disease Control (CDC) released a series of recommendations to reduce the incidences of children exposed to lead in their environment. The result was an updated CDC blood lead reference level, which cut in half the amount of lead in blood at which medical monitoring and other action is advised for children (from 10 micrograms per deciliter [μg/dL] to 5 μg/dL).
- Blood lead levels, when available, are one piece of information EPA may consider when deriving cleanup levels, but Superfund recommends that blood lead studies not be used for establishing long-term remedial or non-time critical removal site cleanup levels. Other factors EPA considers include, but are not limited to, housing stock age and the relative bioavailability of lead.
- EPA uses the Integrated Exposure Uptake Biokinetic model to assess human health risk at lead sites that have potential residential land use. The Agency expects to complete an update of the model's default exposure parameters to reflect the latest science in 2018. The Adult Lead Model, updated in 2017, assesses risk at commercial/industrial use lead sites.
- A policy provision in the FY 2016 Omnibus bill directed the Agency to contract with the National Academy of Sciences (NAS) to conduct a study of lead at Superfund sites within, adjacent or proximal to the nation's largest lead mining districts. The NAS issued its report, *Investigative Strategies for Lead-Source Attribution at Superfund Sites Associated with Mining Activities,* in October 2017. The study recommends potential improvements in approaches used for assessing sources of lead contamination at or near Superfund sites, without recommending changes to the clean-up requirements or remediation activities at any designated site. Further, it identifies important research needs.

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LOWER HACKENSACK RIVER

QUESTION: What is the status of the addition of the Lower Hackensack River to the National Priorities List (NPL)?

ANSWER:

- The Lower Hackensack River may be considered for addition to the NPL in the future, among other possible options.

- EPA has compiled and reviewed the scientific information and documents needed to support an NPL listing.

- EPA is consulting with the State of New Jersey who is completing its own independent evaluation of the data.

BACKGROUND:

- The Lower Hackensack River is contaminated with polychlorinated biphenyls, mercury, lead and polycyclic aromatic hydrocarbons far exceeding sediment benchmark levels.

- The contamination is a result of decades of sewer and industrial discharges into the river and its tributaries by numerous industrial sources. Many potentially responsible parties are now defunct.

- The state of New Jersey has issued multiple fish advisories for the river, including "do not eat" bans for blue crabs, American eel and white perch, and limited consumption of white catfish and striped bass. In addition, EPA identified dozens of state and federal threatened or endangered species known to use habitat within the Lower Hackensack River.

- In February 2015, the Hackensack Riverkeeper petitioned EPA to perform a preliminary assessment of the river.

- Congressional Interest: Senators Cory Booker (D-NJ) and Bob Menendez (D-NJ), as well as Representatives Bill Pascrell (D-NJ -9) and Josh Gottheimer (D-NJ-5) support NPL listing.

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FY 2019 CONGRESSIONAL HEARING
LOWER PASSAIC RIVER SUPERFUND SITE

QUESTION: What is the status of cleanup at the Lower Passaic River site?

ANSWER:

- Construction design activities for the river's lower 8.3 miles, which the Occidental Chemical Corporation (OCC) is performing under a consent decree, are on schedule to be completed by 2020. The remedial action will follow and is expected to be completed in six years and cost approximately $1.38 billion.

- EPA is working to allocate responsibility among the site's potentially responsible parties (PRPs), while the Lower 8.3 Miles design work is underway. At the allocation's conclusion, EPA and the Department of Justice intend to negotiate a consent decree with OCC and other PRPs to implement and pay for the remedial action.

- EPA is currently considering a request from the Cooperating Parties Group to conduct an interim action, which involves removing source material in the river's upper 9 miles under an expedited schedule.

BACKGROUND:

- The river is contaminated with dioxin, polychlorinated biphenyls, pesticides, mercury and other contaminants.

- The sediment contamination has closed fisheries, hampered local waterfront development plans, and increased the Port of New York's and New Jersey's dredging costs.

- Prior actions included the removal of 40,000 cubic yards of highly contaminated sediments near the former Diamond Alkali manufacturing site in Newark in 2012, and 16,000 cubic yards from a mudflat in Lyndhurst in 2014.

- EPA has divided the site into four operable units (OUs):
    - OU1 is the former manufacturing plant at 80-120 Lister Avenue, for which an interim record of decision (ROD) for containment was completed in 2001 and is being maintained and monitored;
    - OU2 is the Lower 8.3 Miles of the Lower Passaic River, for which EPA issued a ROD in 2016;
    - OU3 is the Newark Bay Study Area, currently in the remedial investigation/ feasibility study (RI/FS) stage; and
    - OU4 is the 17-mile Lower Passaic River Study Area, which is also in the RI/FS stage.

- In March 2016, EPA issued a ROD for an estimated $1.38 billion cleanup plan to address OU2. The plan includes dredging 3.5 million cubic yards of contaminated sediment and installing an engineered bank-to-bank cap. The contaminated sediment will be transported offsite to permitted disposal facilities.

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FY 2019 CONGRESSIONAL HEARING
MISSISSIPPI PHOSPHATE

QUESTION: What is the status of the Mississippi Phosphate site?

ANSWER:

- In February 2017, the Superfund removal program took over operation of the wastewater treatment plant at the bankrupted Mississippi Phosphate site.

- EPA added the site to the National Priorities List on January 18, 2018. Long-term, remedial funding will be needed to maintain site control and closure.

BACKGROUND:

- There are more than 700 million gallons of low pH, contaminated wastewater stored on the site. Approximately 10 million additional gallons of water are generated by each 1 inch of rainfall. Total site closure costs are expected to exceed $100 million.

- EPA has prepared an engineering evaluation/cost estimate for a non-time critical removal action (NTCRA) to close the site's east gypsum stack and several on-site wastewater ponds. The NTCRA, with an estimated cost of approximately $72 million, is needed to reduce the volume of contaminated wastewater requiring daily treatment.

- EPA is planning a remedial investigation to address the remaining areas of the site.

- A liquidation trust was established after the facility entered bankruptcy, in order to sell the marketable facility assets. The liquidation trust's beneficiaries are the State of Mississippi, the federal government, and the Mississippi Phosphate company's creditors.

- The estimated cost to operate the wastewater treatment plant at the site is approximately $900,000 per month.

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FY 2019 CONGRESSIONAL HEARING
OAK RIDGE RESERVATION

QUESTION: What is the status of the Oak Ridge cleanup and what is EPA's role?

ANSWER:

- EPA continues its oversight role at the Oak Ridge Reservation (ORR) and its collaboration with DOE and the Tennessee Department of Environment and Conservation (TDEC) to address the cleanup.

- The site's long-term cleanup activities, mainly groundwater, are scheduled to be completed in 2047. A proposed plan for a new waste disposal facility, Environmental Management Disposal Facility (EMDF), is expected to be issued for public comment in June 2018.

- Discussions continue about the role of the Clean Water Act (CWA) in relation to surface water discharge of radioactive contamination at ORR.

BACKGROUND:

- ORR site, a DOE facility, covers nearly 35,000 acres and is located within and adjacent to the corporate limits of Oak Ridge, Tennessee, approximately 20 miles west of Knoxville.

- ORR was listed on the NPL in 1989. Cleanup is being implemented under a FFA among the DOE ORR, EPA, and TDEC that was signed in 1991. DOE is the lead federal agency, and EPA and TDEC provide regulatory oversight for the ORR cleanup.

- This remedy is greater than $50 million and the Record of Decision will be signed by the Administrator. This includes proper siting, design, construction, operation and eventual closure of on-site disposal facilities.

- DOE and EPA have different interpretations on the role of the CWA as an applicable or relevant, and appropriate (ARAR) requirement, and are engaged in a Federal Facility Agreement (FFA) informal dispute over this matter. Resolution of this issue is needed since it impacts the EMDF and East Tennessee Technology Park (ETTP) cleanup operations.

- Main features of the ORR NPL site include:
  - The Oak Ridge National Lab is an active federal research facility that includes contaminated areas and structures used during the Manhattan Project.
  - The Y-12 National Nuclear Security Site is an active federal manufacturing and storage facility that is used to manufacture parts for nuclear weapons and stores the nation's supply of enriched uranium.
  - The former federal K-25 Gaseous Diffusion Plant, now known ETTP, is a closed uranium enrichment processing facility that is undergoing cleanup in support of a non-DOE, private industrial park.
  - The Environmental Management Waste Management Facility is a land disposal facility authorized by EPA and TDEC for disposal of wastes generated by environmental restoration activities.

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PER- AND POLYFLUORALKYL SUBSTANCES (PFASs)

QUESTION: What is EPA's role regarding Per- and Polyfluoroalkyl Substances (PFAS) releases at Federal Facility National Priorities List (NPL) sites?

ANSWER:

- EPA is working with DoD to investigate and address PFAS related impacts on drinking water.
- EPA has an oversight role at federal facility National Priorities List sites and works with the federal agencies and the states to ensure protective responses are taken at sites to prevent environmental contamination and to address PFAS that threaten public drinking water.
- EPA program offices and regions are providing technical support to states, tribes, and local governments as requested.

BACKGROUND:

- PFAS have been widely used to make products more stain-resistant, waterproof, nonstick, and are also associated with Aqueous Film Forming Foam (AFFF) used to extinguish flammable liquid fires, such as those involving jet fuel, gas tankers, oil refineries, and military fire training exercises. The Department of Defense (DoD) is one of many consumers of AFFF, particularly at Navy and Air Force installations.
- Exposure to perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS) over certain levels in drinking water may result in adverse health effects, including cancer, and adverse impacts to the liver, thyroid, and on developing fetuses or to breastfed infants.
- EPA issued health advisories in 2016 for both PFOA and PFOS, replacing the 2009 provisional advisories. Health advisories are non-regulatory and provide information on the health effects of drinking water contaminants. The contaminant levels suggested in the 2016 health advisories provide a margin of protection from a lifetime of exposure to PFOA and PFOS from drinking water. The 2016 health advisory levels for these contaminants are 70 parts per trillion.
- The two most studied PFASs, PFOA and PFOS have been monitored primarily in large public drinking water systems as part of the Safe Drinking Water Act Unregulated Contaminant Monitoring Rule 3. This national monitoring effort identified PFOA and PFOS at above the drinking water health advisory levels in 22 states, 2 territories, 1 tribe and at several DoD facilities and surrounding communities across the country.
- In June 2016, the Office of the Assistant Secretary of Defense directed DoD components to test DoD supplied drinking water for PFOA and PFOS, and to take certain actions if test results showed elevated concentrations of either compound.
- The DoD maintains and operates wastewater and drinking water treatment facilities at many of its fixed installations in the United States, provides drinking water to 3.4 million people living and working on DoD installations, and operates more than 100 domestic wastewater facilities. DoD is a drinking water purveyor and a Potentially Responsible Party.

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FY 2019 CONGRESSIONAL HEARING
PORTLAND HARBOR SUPERFUND SITE

QUESTION: What is the status of the "in-river" portion of the cleanup at the Portland Harbor Superfund site?

ANSWER:

- EPA selected the final remedy for the Portland Harbor site's in-river portion (covering a 10-mile stretch of the Willamette River) in January 2017.

- EPA anticipates that the potentially responsible parties (PRPs) will perform baseline sampling for the remedial design as well as remedial design work and site cleanup. EPA continues to work with its state, tribal, community, and regulatory partners to implement the cleanup plan.

- There are multiple actions currently underway by EPA and the Oregon Department of Environmental Quality (DEQ) to move the site work forward as EPA negotiates actions for individual parts of the site. In addition, DEQ is taking several actions upstream of the site in the Willamette watershed.

BACKGROUND:

- The remedy, which uses a combination of dredging, capping, enhanced natural recovery and monitored natural recovery, has an estimated cost of $1 billion and will take approximately 13 years to implement.

- PRPs have raised concerns about the cleanup plan's impact on the harbor and have asked if less costly cleanups would achieve the same environmental results. Community members, local governments, the State of Oregon and affected tribes have raised concerns that any changes to the cleanup plan will delay cleanup activities from occurring.

- EPA and DEQ began studying the site in 1997. The cleanup of the upland and upriver contamination is being conducted primarily under DEQ oversight using state authorities, although the EPA retains the discretion to use its authorities to ensure the selected remedy's success.

- The EPA has identified approximately 150 PRPs, including private companies, the Port of Portland, federal agencies, the State of Oregon, and the City of Portland. Several years ago, a third-party allocation process was convened involving approximately 90 PRPs who are attempting to reach agreement on their relative shares of responsibility for the cleanup.

- *Congressional Interest:* Senators Wyden (D-OR) and Merkley (D-OR); Representatives Blumenauer (D-OR), Bonamici (D-OR), Schrader (D-OR) and DeFazio (D-OR).
    - The EPA continues to fulfill its commitment to Oregon's Congressional delegation to provide enhanced public engagement.

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FY 2019 CONGRESSIONAL HEARING
ROLE OF STATES IN SUPERFUND PROGRAM

QUESTION: What is EPA's perspective on delegating portions of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) cleanup authority to states that can demonstrate the ability to conduct certain Superfund cleanups?

ANSWER:

- It is not necessary to change CERCLA to add additional delegation of authority to the states.
- CERCLA currently includes key roles for states in the federal Superfund remedial program, and where appropriate, enables states to be designated as the lead agency for remedial action.
- EPA will continue to seek and expand opportunities afforded by the existing statute to work closely with states to efficiently leverage our respective cleanup resources.

BACKGROUND:

- State cleanup programs are already used to address a wide variety and large number of contaminated sites.
- EPA's policy calls for state concurrence in listing sites on the National Priorities List (NPL) in nearly all cases.
- Through cooperative agreements, EPA provides states with funding to conduct work under CERCLA including, but not limited to, site assessment, remedial action, review of remedy decision documents, and enforcement action.
- In FY 2017, EPA provided approximately $58 million to states to conduct activities at NPL sites, and to support state Superfund programs.
- Cost recovery authority is already available to states under CERCLA.

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FY 2019 CONGRESSIONAL HEARING
SOUTHSIDE CHATTANOOGA LEAD SITE

QUESTION: What is the status of the Southside Chattanooga Lead site?

ANSWER:

- EPA, in consultation with the State of Tennessee, proposed the site to the Superfund National Priorities List (NPL) on January 18, 2018. NPL listing will allow EPA to use its Superfund authority to investigate additional residential areas that may be impacted, and to clean up lead-contaminated soil where it poses an unacceptable risk to human health.

- Prior to proposing the site to the NPL, EPA collaborated with the Tennessee Department of Environmental Conservation (TDEC) to complete sampling of 239 residential properties for lead-contaminated spent foundry material. EPA has undertaken a time-critical removal action to remove lead-contaminated soil from residential properties where concentrations of lead exceed 1,200 mg/kg. Time-critical removal actions are short-term responses intended to protect people from risks or potential risks associated with contaminated sites.

- EPA has been coordinating with TDEC, under their voluntary cleanup program, to expedite the cleanup efforts at the site. As a result of this coordination and partnership, TDEC will address the commercial/industrial properties within the Site boundary, while EPA addresses the residential properties.

- EPA completed removal activities to address lead contamination at 84 residential properties along Read Avenue and Mitchell Avenue and 15 additional properties in the Jefferson Heights neighborhood, at a cost of approximately $3.7 million.

BACKGROUND:

- The site consists of residential properties contaminated with lead due to the past use of foundry byproducts as fill material.

- The costs of pre-NPL site investigations total $650,000.

- The 90-day public comment period on the proposed NPL listing will end on April 18, 2018.

- Remedial investigation (RI) planning activities are ongoing. The first phase of RI field activities is scheduled for May 2018.

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FY 2019 CONGRESSIONAL HEARING
SUPERFUND REMEDIAL CLEANUP PROGRAM

QUESTION: What are the Superfund Remedial Cleanup Program priorities in FY 2019?

ANSWER:

- The Superfund Task Force, created on May 22, 2017, developed 42 recommendations to reinvigorate the Superfund program by expediting cleanup and remediation, re-invigorating PRP cleanup and reuse, encouraging private investment, promoting redevelopment and community revitalization, and engaging partners and stakeholders. Under the Task Force, EPA developed a list of 21 Sites Targeted for Immediate, Intense Action that can benefit from the Administrator's direct engagement; prepared a redevelopment focus list of 31 sites found to have the most significant and immediate redevelopment potential; and provided a list of sites deleted or partially deleted from the NPL in 2017.
- EPA also will continue to use special account resources collected from settlement agreements with parties for site-specific response work, pursue enforcement opportunities, and pursue opportunities to seek cost savings, as outlined in the Superfund Task Force Recommendations.
- In FY 2017, EPA had 155 ongoing fund-lead construction projects at NPL sites. In FY 2017, the Agency approved funding for 7 out of 25 new fund-lead construction projects. In recent years, EPA has had new projects ready to begin work where funding was not available.
- To address this shortfall, EPA prioritizes activities at NPL sites that present the highest risk to human health and the environment.

BACKGROUND:

- EPA's Superfund Cleanup program addresses many of the worst contaminated areas in the United States by conducting investigations, implementing long-term cleanups, and overseeing response work conducted by Potentially Responsible Parties (PRPs) at NPL sites.
- Under the Comprehensive Environmental Response, Compensation, and Liability Act, Superfund site cleanup may be accomplished by multiple funding sources, including funding provided by Congress and by states (e.g., Superfund state cost share), funding in special accounts provided by PRPs through settlement agreements for specified sites, or PRPs performing the cleanup themselves.
- Data EPA collected shows that at 487 Superfund sites in reuse, approximately 6,622 businesses are generating $43.6 billion in sales and employ more than 156,352 people who earn a combined income of $11.2 billion. A study conducted by faculty at three major universities found that Superfund cleanups reduce the incidence of congenital anomalies by roughly 20-25 percent among infants born to mothers living within 2,000 meters of a site.[2]

RESOURCES (Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
SF	$508.5 M	868.8	$505.0 M	868.8	$508.5 M	868.8	$0.0 M	0.0
Total	**$508.5 M**	**868.8**	**$505.0 M**	**868.8**	**$508.5 M**	**868.8**	**$0.0 M**	**0.0**

[2] Currie, Janet, Michael Greenstone, and Enrico Moretti. 2011. "Superfund Cleanups and Infant Health". *American Economic Review*, 101(3): 435-441.

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FY 2019 CONGRESSIONAL HEARING
SUPERFUND SPECIAL ACCOUNTS

QUESTION: What is the status of $3.2 billion available in Superfund special accounts?

ANSWER:

- EPA works to maximize the use of special accounts to investigate and to cleanup sites; and, as of the end of FY 2017, EPA has spent more than $4.0 billion of special account funds for site-specific response actions.

- EPA plans to spend the $3.2 billion currently available for response actions at those sites and for those uses specified in legal settlement agreements, of which more than $1.3 billion is planned to be obligated for anticipated contract and grant/cooperative agreement actions in the next four fiscal years.

- The Superfund Task Force recommended maximizing special account use to facilitate site cleanup and redevelopment. EPA is updating guidance on fund disbursement from special accounts to entities performing CERCLA response actions at sites to further the goals of the Task Force recommendation.

BACKGROUND:

- The Superfund law (CERCLA) authorizes EPA to retain and use funds received in a legal settlement agreement with a potentially responsible party (PRP) to carry out that settlement agreement.

- Through the establishment and use of special accounts, EPA ensures PRPs pay for cleanup so congressionally appropriated funds are used at sites where no viable PRPs can be identified.

- EPA can only use special account funds at the site(s) specified in CERCLA settlement agreements, and the settlement agreement specifies how the money can be used.

- Through FY 2017, EPA has collected approximately $6.8 billion from PRPs and earned approximately $444 million in interest. Current overall available balance is around $3.2 billion.
    - In FY 2017, EPA obligated and disbursed approximately $340.3 million from special accounts for site-specific response work, excluding reclassifications. Over the past 5 years, EPA has obligated and disbursed, on average, $300 million annually from special accounts while at the same time adding an average of $590 million annually from settlements and earned interest for future site work.

- *GAO Reviews*: In January 2012, the Government Accountability Office completed a review and found that EPA has taken steps to improve special accounts management since the Office of Inspector General issued a 2009 report, "Improved Management of Superfund Special Accounts Will Make More Funds Available for Clean-ups."

- EPA established its Special Accounts Senior Management Committee in 2009; the Committee, comprised of program, enforcement and finance offices, oversees the Agency's management and use of special accounts.

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FY 2019 CONGRESSIONAL HEARING
SUPERFUND TASK FORCE

QUESTION: What is the status of the Superfund Task Force recommendations?

ANSWER:

- EPA convened workgroups and identified specific implementing tasks for each recommendation; the Agency expects to accomplish most of the related work in 2018.

- Specific accomplishments include:
  - Administrator participation as key decision-maker for seven sites with planned remedies greater than $50M;
  - The deletion or partial deletion of seven sites in 2017, with a total of 10 planned for 2018;
  - Development and release of:
    - Administrator's Emphasis List containing sites targeted for immediate and intense action
    - Redevelopment Focus List identifying sites to direct interested developers and potential owners to sites with redevelopment potential; and
    - Superfund human exposure dashboard with status of EPA's sitewide human exposure environmental indicator for each National Priorities List and Superfund Alternative Approach site.

BACKGROUND:

- Administrator Pruitt's May 2017 memo, "Prioritizing the Superfund Program," called for the establishment of a task force to streamline and improve the Superfund program.

- The Superfund Task Force Recommendations report, released in July 2017 with 42 recommendations, reflects the group's consideration of nearly every aspect of the Superfund program—from site identification to remedy selection, implementation and subsequent reuse, including enforcement.

- The task force structured its recommendations around five overarching goals:
  - Goal 1: Expediting Cleanup and Remediation
  - Goal 2: Re-Invigorating Responsible Party Cleanup and Reuse
  - Goal 3: Encouraging Private Investment
  - Goal 4: Promoting Redevelopment and Community Revitalization
  - Goal 5: Engaging Partners and Stakeholders

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FY 2019 CONGRESSIONAL HEARING
TAR CREEK SUPERFUND SITE

QUESTION: What is the status of the Tar Creek Superfund site cleanup?

ANSWER:

- EPA continues to work closely with the Quapaw Tribe of Oklahoma and the Oklahoma Department of Environmental Quality (ODEQ) on the Tar Creek Superfund site's remedy.

- The Oklahoma State Department of Health's latest report of blood-lead level data show that cleanup is lowering children's lead exposure. Elevated blood-lead levels have decreased from approximately 35% to 1.2%.

- EPA is currently investigating the surface water and sediment affected by the site's mine waste. This investigation requires coordination with seven tribes and covers seven watersheds, including 437 square miles and 200 river miles. The investigation is focused on understanding how tribal surface water use for cultural purposes is affected.

BACKGROUND:

- The 40-square-mile Tar Creek site is in northeast Oklahoma on the Kansas/Missouri border. Abandoned mining operations left millions of cubic yards of lead-, cadmium-and zinc-contaminated mill waste in 'chat piles.' In addition to the chat, there are hundreds of miles of abandoned mines filled with acid mine water, affecting watersheds covering more than 100 square miles.

- Over the last 30 years, EPA and site stakeholders have made substantial progress in eliminating the site's human health threats; however, much work remains. A total of more than $300 million has been committed to the site but remediation will require many more millions of dollars.

- EPA completed remediation of nearly 3,000 residential properties, relocated four communities, remediated approximately 3.2 million tons of mining waste and affected soils, and plugged over 50 abandoned wells. As a result of these activities, approximately 600 acres of private and tribal lands are ready for reuse.

- The Oklahoma State Department of Health's latest report of blood-lead level data show that cleanup is lowering children's lead exposure: the report stated that 1.2 percent of the 676 children tested and residing in Ottawa County had elevated blood-lead levels (*i.e.*, equal to or

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above 10.0 micrograms/deciliter blood-lead levels). These results demonstrate a significant and meaningful improvement from early studies, which indicated that approximately 35 percent of the children had elevated blood-lead levels. This reduction will have a positive health impact for generations to come.

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`U.S.S. LEAD SUPERFUND SITE

QUESTION: What is the cleanup status of the U.S. Smelter and Lead Refinery, Inc. (USS Lead) Superfund site?

ANSWER:

- To date, EPA has completed soil cleanups at over 280 properties at the site and plans to complete the remaining 500 within the next three years.

- In April 2018, EPA will mobilize to continue and finish soil cleanup actions in Zone 3 by the end of the calendar year and has ordered the Potentially Responsible Parties (PRPs) to complete the remaining soil cleanup actions at about 350 properties in Zone 2.

- EPA announced an East Chicago Customer Service Plan to better understand the community's concerns. The plan includes a full-time ombudsman, a dedicated phone line, action item tracking list, and a monthly open meeting with stakeholders; EPA plans to hold a community meeting in April.

BACKGROUND:

- The 400-acre USS Lead Superfund site includes the former U.S.S. Lead Refinery, Inc., the former Anaconda smelter facilities, and adjacent contaminated (mostly residential) properties in East Chicago, Indiana.

- EPA added the site to the National Priorities List in 2009; the primary contaminants of concern are lead and arsenic in surface soil.

- Potentially responsible parties (PRPs) include Atlantic Richfield Company, E.I. du Pont de Nemours and Company, the Chemours Company, United States Metals Refining Company, and the U.S.S. Lead Refinery, Inc. and its associated parent companies.

- Since 2012, EPA has undertaken/overseen several removal actions and remedial activities. Under various legal agreements, PRPs are performing some cleanup activities.

- The demolition of the former West Calumet public housing complex began on April 2, 2018.

- In 2017, Indiana's Drinking Water State Revolving Fund (DWSRF) program in coordination with Indiana Department of Environmental Management provided $3 million to East Chicago through the restructure of existing DWSRF debt to replace lead service lines in Zones 2 and 3 of the Superfund site.

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FY 2019 CONGRESSIONAL HEARING
URANIUM MINING CONTAMINATION CLEANUP IN THE NAVAJO NATION

QUESTION: What are EPA's plans to address legacy uranium mining contamination in the Navajo Nation?

ANSWER:

- EPA is continuing its commitment to clean up the legacy of uranium contamination in and around Navajo Nation by focusing on assessment and cleanup work at 46 high-priority mines located near homes and waterways.

- EPA has remediated 51 structures with radiological contamination, provided safe drinking water to 3,013 families on Navajo land, conducted field screening of 523 mines, and performed stabilization or cleanup work at nine mines.

- Cleaning up uranium contamination has led to economic growth and new job opportunities for Navajo residents and businesses. In October 2017, EPA awarded a contract worth $85 million over five years to assess uranium contamination in and around the Navajo Nation. The contractor will partner with Navajo Technical University and local businesses to train Navajo members in professional positions related to assessment and cleanup work. In addition, the contractor has committed to procure services and supplies, whenever possible, from Navajo-owned businesses, helping boost the local economy and create jobs.

BACKGROUND:

- The Navajo Nation encompasses more than 27,000 square miles in the Four Corners area of Arizona, Colorado, and New Mexico.

- From 1944 to 1986, nearly 30 million tons of uranium ore were mined on or near the Navajo Nation, leaving 523 abandoned mines. Uranium mining impacts the Navajo Nation due to pervasive mine waste, contaminated water sources, and homes built with materials containing radiologically-impacted mine waste. EPA's work to address the legacy of uranium mining is part of a larger coordinated effort between five other federal agencies and the Navajo Nation.

- In 2014, the United States entered into a settlement agreement with Anadarko Petroleum Corporation (and some of its affiliates) that provided almost $1 billion for the cleanup of over 50 abandoned Kerr McGee uranium mines on and very near the Navajo Nation. In addition to the $1 billion discussed above, EPA has entered into other settlements valued at approximately $700 million. As a result of these agreements, cleanup can begin at over 219 of the 523 abandoned uranium mines, nearly 40 percent of the total mine inventory on Navajo Nation. EPA will continue efforts to prioritize mines that pose the most significant threats to public health and the environment.

- *Congressional Interest:* Navajo uranium mine cleanup was the subject of the 2003 and 2007 Congressional hearings. Senators Udall (D-UT), Heinrich (D-NM), Markey (D-MA), and McCain (R-AZ); and Representatives Luján (D-NM), Pallone (D-NJ), and Grijalva (D-AZ), O'Halleran (D-AZ) have expressed an ongoing interest in this topic.

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WEST LAKE LANDFILL

QUESTION: What is the status of West Lake Landfill cleanup?

ANSWER:

- In February of 2018, EPA published a proposed plan and initiated a public comment period to amend a 2008 record of decision for the West Lake Landfill Superfund site. The preferred alternative would remove approximately 67 percent of the radioactivity from the landfill and would include measures to prevent future unacceptable risks.

- The public comment period runs from February 6 to April 23, 2018. EPA is specifically soliciting comments related to the depth and concentration criteria established as a baseline for the preferred alternative as well as the selection of different depths and concentration criteria between Area 1 and Area 2. EPA also is inviting comments on both on and off-site disposal options.

BACKGROUND:

- The West Lake Landfill Superfund site in Bridgeton, Missouri, contains radiologically impacted material (RIM) from the Manhattan Project. Site areas where RIM is present are part of a larger Superfund site response. RIM is waste material from the processing of uranium ore and contains radionuclides, including isotopes of uranium, thorium and radium.

- The inactive Bridgeton Sanitary Landfill, adjacent to the West Lake site, is a permitted municipal waste landfill under state jurisdiction. An ongoing subsurface smoldering event was discovered in 2010 and is more than 700 feet from the RIM.

- The site's groundwater is not currently used as a drinking water source and there is no known future plan for it to serve as such a source. A separate operable unit has been established to investigate the nature and extent of potential groundwater contamination. The determination as to whether the groundwater warrants a cleanup will be done after approximately two years of monitoring data are collected.

- Legislation has been introduced in the House of Representatives (H.R. 2632) and in the Senate (S. 1211) to transfer cleanup duties from the EPA to the Formerly Utilized Sites Remedial Action Program under the Army Corps of Engineers.

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BROWNFIELDS

BACKGROUND:

The EPA Brownfields Program is one of the most successful programs in the federal government. We are appreciative that Congress has acted to enhance the Program by giving needed statutory relief to local governments and states when those governments work to improve a contaminated property and not make them continue to risk being fully responsible for the cleanup. This latter point has been a drain on a good program and has both prevented and complicated site reuse.

CURRENT STATUS:

While there are 1,342 Superfund National Priorities List (NPL) sites in the country, there are between 450,000 and 600,000 abandoned and contaminated sites in the United States. The Brownfields Program leads to visible differences in communities that sponsor brownfield remediation.

TALKING POINTS:

- The Brownfields Program is a success and proves itself each and every day across this country.
- Statistics from earlier this year show that 129,240 jobs have been created and $24.7 billion of public and private funding have been leveraged in the Brownfields program.
- For every $1 EPA provides to a community, $16.11 is created or leveraged.
- When brownfields are cleaned up, property values increase 5-15.% within 1.24 miles of the sites.
- Additionally, EPA analyzed data near 48 brownfield sites and found that the cleanup of these sites provided and estimated $29- $97 million in additional tax for the local governments in a single year after clean up.

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FY 2019 CONGRESSIONAL HEARING
BROWNFIELDS PROGRAM ACCOMPLISHMENTS AND FY 2019 BUDGET

QUESTION: What will the Brownfields Program Accomplish in FY 2019?

ANSWER:

- The President's FY 2019 funding request is expected to leverage over 5,800 jobs and $1.1 billion in cleanup and redevelopment. It is estimated that this will result in over 1,000 sites assessed, 117 sites cleaned up, 735 people trained, and 510 people placed in environmental sector jobs.

- In FY 2019, EPA will build on current work to revitalize communities across the country by providing financial and technical assistance to assess, cleanup, and plan reuse at brownfield sites. The Brownfields program will continue to foster federal, state, tribal, local, and public-private partnerships to return properties to productive economic use.

- Since 1995, grant recipients have leveraged over $25.6 billion and over 131,000 jobs due to Brownfields redevelopment and cleanup activities.

BACKGROUND:

- EPA's Brownfields program supports efforts to return potentially contaminated or contaminated sites to productive reuse by awarding grants and providing technical assistance to states, tribes, local communities, and other stakeholders to work together to plan, inventory, assess, safely cleanup, and reuse brownfields. Approximately 129 million people (roughly 40 percent of the U.S. population) live within three miles of a Brownfields site that had received EPA funding.

- As of January 2018, grants awarded by the program have led to over 70,016 acres of idle land made ready for productive use and over 131,094 jobs and $25.66 billion leveraged. To date, grantees have completed more than 27,454 assessments and over 1,620 cleanups. State and tribal response programs using CERCLA Section 128(a) funding have reported more than 149,000 cleanups completed. In addition, based on historical data provided by the Assessment Cleanup and Redevelopment Exchanges System database, $1 of the EPA's Brownfields funding leverages between $16 and $17 in other public and private funding.

- In FY 2019, EPA requests approximately $109 million for the Brownfields program, a decrease of $43.4 million from the FY 2018 Annualized Continuing Resolution from both the States and Tribal Assistance Grants and Environmental Program Management appropriations.

RESOURCES (Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$25.6M	149.8	$25.4M	149.8	$16.1M	92.6	-$9.5M	-57.2
STAG	127.7M	0.0	$126.9M	0.0	$93.8M	0.0	-$33.9M	0.0
Total	**$153.3M**	**149.8**	**$152.3M**	**149.8**	**$109.9M**	**92.6**	**-$43.4M**	**-57.2**

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FY 2019 CONGRESSIONAL HEARING
CHEMICAL FACILITY COMPLIANCE ASSISTANCE FEE

QUESTION: What is the new fee proposal for EPA-provided compliance assistance at chemical facilities?

ANSWER:

- EPA is proposing a voluntary compliance assistance service to high risk chemical facilities in order to expand awareness and understanding of accident prevention processes, improve operational safety, avoid inadvertent regulatory violations, and prevent costly accidents.

- Compliance assistance will be separate from the enforcement efforts of the Agency in that a facility may still be inspected for violations after participating in the program. The intent is that if a facility uses the service, it will be less likely to receive a violation notice when the enforcement officer arrives if the facility applied the recommendations made by the compliance assistance personnel.

- There are close to 12,500 Risk Management Plan (RMP) facilities.

- For a fee, EPA would conduct a walk through of a facility and provide recommendations on steps a facility could take to come into compliance or remain in compliance with regulations. This proposed program would be voluntary, and a facility would only be required to pay the fee if it chooses to utilize EPA's compliance assistance services.

- If the fee is authorized, EPA will perform an analysis to determine the appropriate scalable fee, depending on the size of the facility and the resources needed to complete the compliance audit.

- EPA estimates that it could collect as much as $20 million from chemical facilities if all high-risk facilities take advantage of the service.

- By increasing EPA's ability to meet with facilities and provide advice on regulatory compliance and standards, the Agency can help reach more facilities and improve compliance nationwide.

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CHEMICAL FACILITY SAFETY - RISK MANAGEMENT PLAN (RMP)

QUESTION: What is the status of the RMP Amendments Rule?

ANSWER:

- EPA is currently performing a reconsideration proceeding to address three Petitions for Reconsideration. The reconsideration proceeding may result in changes to the final RMP Amendments rule.

- EPA is currently drafting a proposed rule to reconsider certain provisions of the RMP Amendments rule. EPA expects to publish a proposed reconsideration rule in 2018 and a final rule in 2019.

BACKGROUND:

- The Clean Air Act requires that facilities handling more than a threshold quantity of certain extremely hazardous chemical substances must implement a risk management program. EPA has identified approximately 12,500 RMP facilities of which approximately 1,900 are designated high risk RMP facilities.

- The RMP program contains three elements: a hazard assessment, a prevention program, and an emergency response program. The entire program is to be described and documented in a risk management plan which is submitted to EPA.

- The RMP Amendments rule modified or added several provisions regarding the prevention of accidental releases, emergency response preparedness, and sharing of information with the public. It was published on January 13, 2017, with an original effective date of March 14, 2017.

- EPA received three Petitions for Reconsideration under CAA Section 307(d) from:
    - The "RMP Coalition" (American Chemistry Council, American Forest & Paper Alliance, American Fuel & Petrochemical Manufacturers, American Petroleum Institute, U.S. Chamber of Commerce, National Association of Manufacturers, Utility Air Regulatory Group)
    - The Chemical Safety Advocacy Group (a coalition of companies from affected sectors)
    - State Attorney Generals (AR, AZ, FL, KS, LA, OK, SC, TX, WV, WI) and the Governor of KY

- Petitioners raised concerns that the final rule creates security risks and is unduly burdensome.

- EPA agreed to conduct a reconsideration proceeding, and on June 14, 2017 published a final rule to extend the effective date of the RMP Amendments rule to February 19, 2019.

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FY 2019 CONGRESSIONAL HEARING
COAL COMBUSTION RESIDUALS

QUESTION: What is the status of the coal combustion residuals (CCR) rule implementation?

ANSWER:

- EPA is taking actions to implement the Water Infrastructure Improvements for the Nation (WIIN) Act of 2016, which authorizes EPA to approve state CCR permit programs and to issue permits to CCR disposal units on tribal land, provided EPA received an appropriation specifically for implementing a CCR permit program.

- $6 million was included in the FY 2018 Omnibus to develop and implement a federal permit program for CCRs.

- EPA is working with multiple states seeking information on applying for state program approval. In January 2018, EPA issued a notice proposing to approve Oklahoma's application for their CCR permit program. EPA must make a final determination by June 2018.

- On March 1, 2018, Administrator Pruitt signed the first of two rules that proposes to amend the April 2015 final rule. The proposal includes six provisions provide that states or EPA with the ability to incorporate flexibilities into their coal ash permit programs. These flexibilities would be available to facilities with EPA-issued CCR permits. EPA estimates this proposed rule would save the regulated community between $31 million and $100 million per year.

BACKGROUND:

- In April 2017, EPA wrote to the states, encouraging the submission of applications for CCR permit programs. In August 2017, EPA released for public comment guidance on the review process for approval of state CCR permit programs. The guidance resulted from collaboration with states and regions. States do not need to wait until EPA finalizes the guidance to submit permit programs for review.

- EPA published a rule on April 17, 2015 that determined CCR was nonhazardous under the Resource Conservation and Recovery Act (RCRA) and established requirements for the disposal of CCRs in landfills and impoundments. The rule provides for:
    - The closure of unlined surface impoundments that are polluting groundwater;
    - Groundwater monitoring around surface impoundments and landfills;
    - Groundwater cleanup from CCR contamination;
    - Structural integrity criteria for surface impoundments to guard against unit failures;
    - Operating criteria preventing CCR from becoming airborne at the facility; and
    - Proper closure of all impoundments and landfills that will no longer receive CCRs.

- CCRs contain mercury, cadmium, and arsenic, which are harmful to public health if they contaminate drinking water. The electric utility industry generates over 120 million tons of CCRs each year. Prior to the rule there were no comprehensive federal standards specifically for the safe disposal of CCR or for structural stability of CCR dams. The Agency has documented cases where poorly managed CCR storage or disposal has damaged drinking water and environment. Due to the limited authority under RCRA, these criteria applied directly to

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electric utilities, did not allow requirements to be tailored through a permitting process to site specific conditions, and were enforceable only by citizen suits or states acting as citizens.

DIESEL TANK CORROSION

QUESTION: How is EPA addressing corrosion in Underground Storage Tanks systems (UST) storing diesel fuel?

ANSWER:

- EPA held discussions with UST industry experts and worked collaboratively to develop field-based research that would further the understanding of corrosion inside USTs storing diesel.

- EPA continues to explore avenues to better understand and address these challenges through coordination and cooperation with our various stakeholders. This includes making stakeholders aware of documents from professional organizations providing best practices for maintaining USTs storing diesel fuel *e.g.*, ASTM, Coordinating Research Council (CRC), Clean Diesel Fuel Alliance, and the Steel Tank Institute.

BACKGROUND:

- Corrosion may cause metal components inside both steel and fiberglass systems to corrode. This can shorten the lifespan or affect the serviceability of components, including limiting the movement of floats on automatic tank gauging systems, operability of mechanical devices designed to prevent the chance of overfilling the tank, or ability of valves to shut off flow of product in the event of a release. Corrosion may cause dispenser filters to clog and need replacement more frequently. Corrosion could potentially limit the proper functionality of sheer valves or equipment designed to test for leaks in fuel product lines.

- In July 2016, EPA released a report detailing research conducted on 42 actively operating underground tanks storing diesel fuel at facilities across the United States and found that 83 percent exhibited moderate or severe corrosion of metal components inside the tank system.

- In addition, anecdotal evidence suggests corrosion is a widespread and potentially significant problem for owners of underground tanks storing diesel fuel.
    - State groups report that nationwide awareness of a diesel corrosion issue is growing.
    - Reports in trade association publications and industry meetings are increasing on this matter.
    - Functional failures of equipment (e.g. shear valves) becoming commonly reported.

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FY 2019 CONGRESSIONAL HEARING
ELECTRONIC MANIFEST (e-Manifest)

QUESTION: What is the status of the electronic manifest (e-Manifest) system for tracking the transport of hazardous wastes in FY 2019?

ANSWER:

- EPA is on track to go live with the industry and state supported e-Manifest system in June 2018.

- In FY 2019, the system will transition to one supported by user-fees. To ensure continued user support, the Agency will continue to refine the e-Manifest system based on user feedback.

- The Agency is not requesting appropriated funding in FY 2019. However, the agency requests authorization to collect and obligate fees to support all activities necessary for the operation, development, maintenance and upgrading of the system, including 10 fee-funded FTE dedicated to e-Manifest program support.

- The Agency anticipates collecting $39 million in fees in FY 2019 and estimated collecting $13 million in fees in FY 2018.

BACKGROUND:

- The e-Manifest system is an industry and state supported approach to tracking the transport of hazardous waste that will result in significant savings to the regulated community.

- In FY 2018, the e-Manifest system will transition to a user fee-funded program. EPA published the e-Manifest user fee final rule in January 2018. This rule included a methodology for determining and revising user fees and a process for publishing fee schedules.

- The Agency also will continue to work with state co-regulators to ensure a smooth transition away from a paper to adoption of the national e-Manifest.

- The e-Manifest law requires an e-Manifest Advisory Board which provides independent review and advice to the agency on operational matters. The first public meeting on January 10-12, 2017, focused on critical functionality. The second meeting, held September 26-28, 2017, discussed the user registration and account activation process for the system.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
e-Manifest	$3.17M	7.9	$3.156M	7.9	$0M	10	-$3.17M	2.1
Total	**$3.17M**	**7.9**	**$3.156M**	**7.9**	**$0M**	**10**	**-$3.17M**	**2.1**

*FY 2019 total is zero to reflect fee-funding

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FY 2019 CONGRESSIONAL HEARING
ELECTRONIC MANIFEST (e-Manifest) FEES

QUESTION: When will e-Manifest transition to 100% user-fee funded?

ANSWER:

- In FY 2019, EPA requests authorization to collect and obligate fees to support all activities necessary for the operation, development, maintenance and upgrading of the system including 10 fee-funded FTE dedicated to e-Manifest program support.

- EPA is on track to go live with the industry and state supported e-Manifest system in June 2018. In FY 2019, the system will transition to one fully supported by user-fees. The Agency anticipates collecting $13 million in fees in FY 2018 and $39 million in fees in FY 2019.

- EPA published the e-Manifest user fee final rule in January 2018. This rule included a methodology for determining and revising user fees and a process for publishing fee schedules.

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IMPLEMENTING THE 2015 UNDERGROUND STORAGE TANK (UST) REGULATION AND STATE PROGRAM APPROVALS (SPA)

QUESTION: What is the status of the 2015 UST regulation compliance deadline and SPA?

ANSWER:

- Due to the size and diversity of the regulated community, states (includes states, territories and DC) are in the best position to oversee underground storage tanks.

- Owners and operators of tank systems in states that have an approved UST program do not have to deal with two sets of statutes and regulations (state and federal). This gives businesses regulatory certainty, providing one set of environmental compliance requirements in any given state.

- Many states will either significantly scale back, or eliminate their UST prevention programs, given the elimination of EPA grants. Accordingly, states' SPA efforts will diminish or completely subside without adequate staff resources, leaving businesses without the benefits of SPA.

BACKGROUND:

- In July 2015, EPA published a new underground storage tank regulation to address environmental protection in Indian country, equipment issues, UST systems deferred in the 1988 regulation, and to address technical advancements.

- State programs must be at least as stringent as EPA's. Once their programs are approved, states have the lead role in UST program enforcement.

- To have their SPA re-approved, or to obtain SPA for the first time, most states will need to make some changes to their existing regulations (to reflect the 2015 UST federal regulation), educate owners and operators, and revise inspection protocols.

- The compliance deadline for the major provision of this 2015 UST regulation is October 13, 2018. This applies in 16 states/territories that do not have SPA, and in Indian country.

- The 38 states plus the District of Columbia and Puerto Rico, which currently have SPA, must reapply by the deadline to retain approval.

- Currently, EPA has reapproved the State of Oklahoma, and has conducted initial reviews of 37 revised state regulations.

- Recently the Petroleum Marketers Association of America (PMAA) and five members of the Michigan congressional delegation wrote to EPA's Administrator requesting an extension to this deadline, however, an extension has not been granted at this time.

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FY 2019 CONGRESSIONAL HEARING
LEAKING UNDERGROUND STORAGE TANKS (LUST) BACKLOG REDUCTION

QUESTION: What are states and EPA doing to reduce the LUST backlog?

ANSWER:

- EPA is working with states on targeted strategies such as: ensuring that older releases are moving forward; examining funding and redevelopment opportunities; and revising policies.

- EPA provides technical assistance, develops programmatic tools, showcases state efficiencies and successes, collaborates with states, supports training and peer matching, and collaborates with OLEM's Office of Brownfields and Land Revitalization for LUST site redevelopment.

- The FY 2019 President's Budget proposed to eliminate prevention funding. The FY 2018 Omnibus provides funding for LUST Prevention program.

BACKGROUND:

- Most states currently fund about 75% of their LUST program with their federal grant money. States use EPA federal grant money to fund staff that oversee cleanups as well as to pay for cleanups where the owner is unknown, unwilling, or unable to pay.

- The elimination of the LUST prevention funding may increase the backlog of LUST sites.

- States and EPA have cleaned up almost 470,000 LUST releases (87%). Work still remains at approx. 68,000 releases (*i.e.*, the backlog) and thousands of additional releases are discovered each year.

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FY 2019 CONGRESSIONAL HEARING
OIL FACILITY COMPLIANCE ASSISTANCE FEE

QUESTION: What is the new fee proposal for EPA-provided compliance assistance at oil facilities?

ANSWER:

- EPA is proposing a voluntary compliance assistance service to high risk oil facilities to expand awareness and understanding of accident prevention processes, improve operational safety, avoid inadvertent regulatory violations, and prevent costly accidents.

- Compliance assistance will be separate from the enforcement efforts of the Agency in that a facility may still be inspected for violations after participating in the program. The intent is that if a facility uses the service, it will be less likely to receive a violation notice when the enforcement officer arrives if the facility applied the recommendations made by the compliance assistance personnel.

- There are approximately 4,600 Facility Response Plan (FRP) facilities and 540,000 Spill Prevention Control and Countermeasure (SPCC) facilities in the US.

- For a fee, EPA would conduct a walk through of a facility and provide recommendations on steps a facility could take to come into compliance or remain in compliance with regulations. This proposed program would be voluntary, and a facility would only be required to pay the fee if it chooses to utilize EPA's compliance assistance services.

- If the fee is authorized, EPA will perform an analysis to determine the appropriate scalable fee, depending on the size of the facility and the resources needed to complete the compliance audit.

- EPA estimates that it could collect as much as $10 million from oil facilities if all high-risk facilities take advantage of the service.

- By increasing EPA's ability to meet with facilities and provide advice on regulatory compliance and standards, the Agency can help reach more facilities and improve compliance nationwide.

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SPILL PREVENTION, CONTROL, AND COUNTERMEASURE RULE (SPCC) AND FARMS

QUESTION: What are the impacts of the SPCC amendments under the Water Resources Reform and Development Act (WRRDA) of 2014 and Water Infrastructure Improvements for the Nation Act (WIIN) Act of 2016 on farming?

ANSWER:

- EPA completed the study required by WRRDA in June 2015, and concluded that it is appropriate to set the SPCC threshold for farms at the minimum aggregate aboveground oil storage capacity of 2,500 gallons. Per WRRDA, farms with less than 2,500 gallons of aggregate aboveground oil storage capacity would remain exempt from SPCC regulation.

- The WIIN Act amended WRRDA with respect to (1) the calculation of aggregate aboveground oil storage on farm facilities; and (2) the exemption of certain containers from SPCC plans.

- Relief for farms from the SPCC rule requirements provided by the WRRDA and WIIN Acts is currently and remains in effect.

- EPA will continue to work with Congress to improve the SPCC program and ensure that our Nation's waters are adequately protected from oil discharges.

BACKGROUND:

- EPA amended the SPCC rule in 2006 to provide a self-certification option for certain facilities, including farms, storing greater than 1,320 gallons and up to 10,000 gallons of oil. As a result, it is estimated that approximately 95 percent of affected farms are eligible to self-certify their SPCC plans. At that time, any facility storing less than or equal to 1,320 gallons of oil were exempt from the SPCC.

- The SPCC rule was again amended in 2008 to add an additional self-certification option from the one developed in 2006. This self-certification option included a template in the rule for facilities that do not have an aboveground oil storage tank greater than 5,000 gallons, an aggregate aboveground oil storage capacity of 10,000 gallons or less and a clean spill history. About 85 percent of farms eligible to self-certify could use this newer option.

- WRRDA directed EPA to conduct a study concerning "significant risk of [oil] discharge to water" from farms, and subsequently, to promulgate a rule within eighteen months after completion of the study to adjust certain SPCC thresholds related to farms in accordance with the study.

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FY 2019 CONGRESSIONAL HEARING
U.S. NAVY'S RED HILL FUEL RELEASE

QUESTION: What is EPA and the State of Hawaii doing to address fuel releases at Red Hill?

ANSWER:

- The Administrative Order on Consent (AOC) establishes a robust and enforceable framework to address the 2014 release and requires the Navy to study and monitor environmental conditions at the facility and the surrounding area. EPA's goal is to ensure that fuel for Pearl Harbor is stored in a manner protective of drinking water supplies and the environment.

- EPA continues to work in partnership with the State of Hawaii to oversee the Navy's work to address the fuel release at Red Hill and develop options for long-term infrastructure improvements and maintenance that will significantly prevent the likelihood for future releases.

BACKGROUND:

- In 2015, EPA and the State of Hawaii issued an AOC requiring the Navy to address and prevent fuel releases at its Red Hill Underground Fuel Storage Facility. The massive mountain facility, likely the largest underground fuel storage complex in the country, stores over 200 million gallons of fuel for military aircraft and ship operations. In January 2014, 27,000 gallons of jet fuel were released to the subsurface.

- Stakeholders have been critical of progress, given the 20-year timeframe to upgrade the tanks. Honolulu Board of Water Supply and other Hawaii organizations are also concerned about past and future releases threatening the drinking water supply.

- EPA anticipates a technically complex and politically controversial decision regarding appropriate upgrades for the facility.

- *Congressional Inquiries:* Senators Schatz and Hirono Introduced S.437 the "Red Hill Oversight and Environmental Protection Act of 2017" and Representatives Gabbard and Hanabusa introduced a companion bill, H.R. 1202, in the House. Though the legislation has not passed, Hawaii's congressional delegation continues to monitor the events relating to the facility

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FY 2019 CONGRESSIONAL HEARING
UST/LUST PROGRAM

QUESTION: What are the UST/LUST Program Priorities in FY 2019?

ANSWER:

- In FY 2019, EPA will continue to work with our state and tribal partners to minimize releases from underground storage tanks and cleanup existing releases. EPA will continue to implement the prevention and cleanup program in Indian country.
- In FY 2019, EPA will provide $38.8M to states for cleaning up the highest priority sites.
- Some states may be able to perform a more limited version of their core cleanup work. In addition, some states may be able to pursue strategies to maximize the effectiveness or efficiency in protectively completing cleanups and reducing their backlogs.

BACKGROUND:

- The Leaking Underground Storage Tank (LUST) program ensures that petroleum contamination is properly assessed and cleaned up by providing states with funding to assess and clean up releases. Releases of petroleum from underground storage tanks (UST) can contaminate groundwater, the drinking water source for many Americans. Cleaning up LUST sites makes them available for redevelopment opportunities.
- The Energy Policy Act of 2005 requires EPA to inspect every tank in the nation at least once every three years. While states currently conduct 99 percent of inspections needed to meet this inspection mandate, most currently contribute less than 25 percent of the total cost of UST program implementation. This level of compliance will not be possible with the proposed funding levels and states will focus on the highest priority sites.
- EPA anticipates prioritizing LUST Cleanup Cooperative Agreement resources with states that maintain compliance with EPAct requirements. Some states may be able to maintain a partial inspection program by charging fees to the regulated community or increasing gas taxes to recover some of the lost funding.
- States and EPA completed 8,775 cleanups in FY 2017. 87.3 percent of all cumulative confirmed releases have reached cleanup completion: 71.6 percent of the approximately 200,000 federally regulated UST facilities are in significant operational compliance. Releases continue to occur, with 5,678 reported in FY 2017.
- Overall, the LUST program has been reduced by $53.8 million and 47.7 FTE in FY 2019. The majority of the program is funded by the LUST Trust Fund.

RESOURCES (Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$11.3M	62.4	$11.2M	62.4	$5.6M	35.2	-$5.7M	-27.2
STAG	$1.5M	0.0	$1.5M	0.0	$0.0M	0.0	-$1.5M	0.0
LUST	$91.9M	54.1	$89.0M	45.7	$45.3M	33.6	-$46.6M	-20.5
Total	**$104.7M**	**116.5**	**$101.7M**	**108.1**	**$50.9M**	**68.8**	**-$53.8M**	**-47.7**

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FY 2019 CONGRESSIONAL HEARING
EPA BROWNFIELDS REVOLVING LOAN FUND (RLF)

QUESTION: What is the status of EPA's Brownfields Revolving Loan Fund program?

ANSWER:

- On August 2017, the Inspector General (IG) issued report detailing concerns on maximizing program income, inconsistencies in program application, unavailable or unused program data and some regional financial management procedures not meeting federal standards. The report recommended that EPA take steps to better manage closed RLF cooperative agreements that retained program income.

- EPA concurred with the IG recommendations and will issue an updated policy memorandum in May 2018 to ensure all closed RLF cooperative agreements have a dedicated EPA project officer assigned to ensure adherence to program income terms and conditions after closure, among other actions.

- In the FY 2019 President's Budget, EPA proposes to pause RLF Supplemental awards to ensure appropriate terms and conditions are in place for existing RLFs in response to IG concerns and will focus on new assessment and cleanup cooperative agreements.

BACKGROUND

- The Brownfields Revolving Loan Fund (RLF) Program provides funding for a cooperative agreement recipient to capitalize a revolving loan fund and to provide subgrants to carry out cleanup activities at Brownfield sites. When loans are repaid, the loan amount is returned into the fund and re-lent to other borrowers, providing an ongoing source of brownfields clean-up capital within a community.

- EPA has awarded over 370 RLF cooperative agreements. The RLF Program has funded over 1,000 projects across the country, touching hundreds of communities in both rural and urban areas.

RLF ACCOMPLISHMENTS

- Under the Brownfields Projects STAG appropriation, RLF projects account for 50% of Brownfield cleanups (as of FY 2017). Including the 128a STAG appropriation, the RLF projects account for 36% of Brownfield cleanups.

- Outside of Assessment cooperative agreements, RLFs generate the most jobs leveraged and account for 25% of the Brownfields Program's total jobs leveraged with over 30,500 jobs.

- The RLF Program contributes approximately 26% of the Brownfield Program's leveraged funding and leverages $3.46 billion more than brownfields cleanup grants. ($6 B vs $2.6 B)

- A recent draft RLF Program Evaluation found, on average, RLF's leverage 63 jobs and $10.7 million in cleanup and redevelopment funds per project.

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FY 2019 PRESS CONFERENCE & HEARINGS
CLIMATE RESEARCH ELIMINATION

QUESTION: What is EPA's climate change research budget for FY 2019?

ANSWER: In FY 2019, the Agency is eliminating climate change research within its Research and Development Program. EPA's Research and Development Program will continue to support clean air and energy research, and will be prioritizing limited resources to focus on these issues.

BACKGROUND: States, local governments and communities actively request information and tools to prepare for the impacts of climate change. Researchers in the Air and Energy (A&E) research program answered the public need by developing user friendly tools for communities.

- Research focused on understanding the relationship between air quality and climate change and how they are affected by the choices Americans make to produce and use energy.
  - *Assessing impacts* – assess human and ecosystem exposures and effects associated with air pollutants and climate change.
  - *Preventing and reducing emissions* – provide data and innovative tools to prevent and reduce air pollution emissions in environmentally sustainable and cost-effective ways. *Responding to changes in climate and air quality* – provide modeling, monitoring, metrics, and information needed to prepare for climate change and make public health decisions regarding air quality.

- *Accomplishment: Qualitative Assessment: Evaluating the Impacts of Climate Change on Endangered Species Act Recovery Actions for the South Fork Nooksack River, WA*
  - EPA evaluated the effectiveness of restoration tools, such as riparian shading, to address climate change impacts on Pacific salmon recovery.
  - The study successfully helped the State of Washington and the Nooksack Indian Tribe identify and prioritize adaptation strategies and recovery actions for the South Fork Nooksack River, explicitly including climate change as a risk.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
S&T	$18.9M	48.5	$18.8M	48.5	$0.0M	0.0	-$18.9M	-48.5
Total	**$18.9M**	**48.5**	**$18.8M**	**48.5**	**$0.0M**	**0.0**	**-$18.9M**	**-48.5**

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FY 2019 PRESS CONFERENCE & HEARINGS
EPA's COMPUTATIONAL TOXICOLOGY RESEARCH PROGRAM

QUESTION: How is EPA's computational toxicology and exposure research (CompTox) research program applied within the Agency?

ANSWER:

- CompTox develops methods to efficiently screen large numbers of chemicals in a short amount of time, using fewer research dollars than conventional toxicity testing and exposure methods.
- In FY 2019, The Program will provide essential support to the Agency in:
  - Fulfilling requirements for chemical evaluation under the TSCA as amended by the *Frank R. Lautenberg Chemical Safety for the 21st Century Act.*
  - Developing screening-level risk assessments for data-poor chemicals (e.g., per- and polyfluoroalkyl substances, or PFAS).
  - Releasing on-line software tools that help with chemical prioritization decisions.
  - Exploring how CompTox data can be used to help vulnerable subpopulations.

BACKGROUND:

- EPA's FY 2019 budget request supports the computational toxicology and exposure research (CompTox) program with $17.2M and 46.3 FTE
- This represents a reduction of $4.2M and 13.1 FTE from FY 2017 Enacted levels.
- CompTox research supports implementation of the revised Toxic Substances Control Act (TSCA) by providing critical chemical data through predictive models and testing methods to screen, prioritize, and evaluate potential chemical risks to human health and the environment as well as assisting in the development of the Alternatives Strategic Plan based on experience with these methods.
- EPA works with the NIH and the FDA in the Tox21 collaboration to develop alternative and high-throughput test methods and strategies that reduce vertebrate animal testing and provide information of better scientific quality and relevance for characterizing chemical toxicity.
- One of EPA's main contributions to Tox21 collaboration is ToxCast – a state-of-the-art screening tool for environmental chemicals. EPA is currently expanding the coverage of ToxCast by increasing the toxicity pathways and the types of chemicals that can be screened.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
S&T	$21.4M	59.4	$21.3M	59.4	$17.2M	46.3	-$4.2M	-13.1
Total	**$21.4M**	**59.4**	**$21.3M**	**59.4**	**$17.2M**	**46.3**	**-$4.2M**	**-13.1**

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FY 2019 PRESS CONFERENCE & HEARINGS
EPA'S INTEGRATED RISK INFORMATION SYSTEM (IRIS) PROGRAM

QUESTION: What will EPA's Integrated Risk Information System (IRIS) Program be focusing on in FY 2019?

ANSWER:

- EPA's FY 2019 budget request supports the IRIS Program with $11.9M and 47.0 FTE.
- This represents a reduction of $8.0M and 35.1 FTE from FY 2017 Enacted levels.
- In FY 2019, the IRIS Program will be prioritizing limited resources to focus on the following issues:
  - Providing targeted, fit-to-purpose assessments for EPA programs and regions, and other partners including states and tribes, by developing a portfolio of products that optimize the application of best available science and technology.
  - Supporting EPA in evaluating health impacts from exposure to known and emerging, chemical and biological contaminants under the authorities of SDWA; conducting Risk and Technology Reviews under Title III of the CAA; helping inform EPA's clean-up decisions at contaminated Superfund, Brownfields, and hazardous waste sites under RCRA and CERCLA
  - Providing scientific products and support required for deep review and support of TSCA implementation to the Agency's Chemical Safety and Pollution Prevention Program.
  - Providing metrics to assist the Superfund program in developing risk assessments for legacy chemicals.
  - Providing technical assistance and scientific expertise to EPA programs and regions, and other partners including states and tribes.

BACKGROUND:

- IRIS assessments inform decisions under the Clean Air Act (CAA), Clean Water Act (CWA), Safe Drinking Water Act (SDWA), CERCLA/Superfund, Toxic Substances Control Act (TSCA), and Resource Conservation and Recovery Act (RCRA).
- IRIS is the only federal program to provide toxicity information for both cancer and non-cancer health effects of chemical pollutants; it is the top tier source of toxicity information used by EPA offices, as well as federal, state and local environmental agencies to inform risk management decisions.
- Recent, major enhancements to the IRIS Program include implementing systematic review methods to ensure IRIS evaluations are complete, unbiased, reproducible, and transparent; and developing fit-for-purpose assessments to ensure IRIS remains responsive to stakeholders/partners.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
S&T	$19.5	79.8	$19.4	79.8	$8.2	28.5	-$11.3	-51.3
SF	$0.4	2.3	$0.4	2.3	$3.7	18.5	$3.3	16.2
Total	**$19.9M**	**82.1**	**$19.8M**	**82.1**	**$11.9M**	**47.0**	**-$8.0M**	**-35.1**

*Note: These are exclusively ORD IRIS resources and do not reflect Science Advisory Board resources to conduct IRIS reviews.

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FY 2019 PRESS CONFERENCE & HEARINGS
EPA RESEARCH AND DEVELOPMENT PROGRAM SUPPORT FOR STATES

QUESTION: How is EPA's Research and Development Program supporting state government science priorities?

ANSWER:

- EPA's Research and Development Program provides vital scientific and technical resources to states and their communities, providing technical support and training, science-based tools, and innovative approaches and methods they need to meet priority environmental challenges.
- Work includes: algal toxin management support (in Ohio); technical assistance in chemical facility (LaPlace, LA) and water distribution (Corpus Christi, TX) matters, and technical and data support in making PFAS management decisions for drinking water issues in multiple regions and states (NC, NH, NJ, WV, etc.)
- Activities include:
  - State and national environmental and health agency and association partnership development to ensure our work is relevant to real-world environmental challenges, and that EPA's scientific findings and tools are delivered and translated to decision makers.
  - Increasing interactions with national state media associations for air, water and waste issues, such as the Environmental Council of the States (ECOS), the Environmental Research Institute of the States (ERIS), the Interstate Technology and Regulatory Council (ITRC), the Association of State and Territorial Health Officials (ASTHO), to ensure EPA research is useful and practical for states, and address their challenges.
  - Inviting state leadership to EPA laboratories to connect them with the research and expertise of the Agency.
  - Providing regular calls and public webinars on matters of interest to state partners.

BACKGROUND:

- The Program collaborates with ITRC on stormwater, per- and poly-fluorinated alkyl substances (PFAS) and remediation technical issues.
- The Program is strengthening alignment of its scientific and technical capabilities with state research needs through a series of meetings and ERIS states' surveys so that it is well poised to address the most pressing environmental challenges of the states. As a result, the Program better understands the science needs of state environmental agencies, and states better understand EPA's research role. This information is being used to update the Research and Development Program's Strategic Research Action Plans.
- The Program formalized a new partnership: EPA, ECOS and ASTHO entered into a Memorandum of Agreement in April 2016 to advance public and environmental health. Collaborative projects include work around wildfire smoke emissions, ecological and health data, and case studies of states' PFAS and harmful algal blooms risk communication to the public.
- The Program sponsors the Regional Applied Research Effort (RARE) program to respond to the high priority applied research needs of EPA regions, state and local governments, and tribes.

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FY 2019 PRESS CONFERENCE & HEARINGS
EPA RESEARCH AND DEVELOPMENT PROGRAM SUPPORT
FOR THE REVISED TOXIC SUBSTANCES CONTROL ACT

QUESTION: What role does EPA's Research and Development Program play implementing the Toxic Substances Control Act (TSCA) as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act?

ANSWER:

- EPA's research provides critical chemical data, information, tools, and approaches for implementation of the revised TSCA that save time and federal resources.
- EPA's innovative computational toxicology (CompTox) research program develops the science to assess and prioritize potential toxicity of thousands of chemicals at a time, saving time and federal resources.
- Desktop tools that integrate available experimental and computational data on chemical properties, environmental fate and behavior, toxicology, human exposure, and consumer use.

BACKGROUND:

Key provisions of the revised TSCA include:

- **Evaluating the Safety of Existing Chemicals** using a three-stage process including prioritization, risk evaluation, and risk management. Here, EPA research supports the Chemical Safety and Pollution Prevention Program in providing the data, information and tools needed for the prioritization and risk evaluation of chemicals, including:
  - Computational modeling of chemical use and human exposure for thousands of chemicals, including exposure to susceptible subpopulations.
  - Database access for managing large volumes of relevant literature with public transparency.
  - Technical support for the development of chemical risk evaluations.
  - Strategies and processes for conducting transparent, systematic reviews of existing chemical information.

- **Developing an Alternative to Vertebrate Testing Strategy**, including a strategic plan to promote the development and implementation of alternative test methods and strategies to reduce, refine or replace vertebrate animal testing. Here, EPA research has developed chemical assessment approaches that will help promote non-animal alternative testing methodologies and the development of a strategic plan.

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FY 2019 PRESS CONFERENCE & HEARINGS
HARMFUL ALGAL BLOOMS (HABS) RESEARCH

QUESTION: What research is EPA conducting to address Harmful Algal Blooms (HABs)?

ANSWER:

- EPA research is focused on providing decision makers, including states, municipalities, water treatment facilities, and tribes, with improved scientific information and tools to more effectively identify and predict HABs events, and to manage the health and ecological risks associated with them.

- EPA, in conjunction with local and state agencies, has several projects divided into four categories devoted to research on HABs:
  - Management and Mitigation
  - Health, Ecosystem, and Economic Effects
  - Monitoring/Analytical Methods
  - Drinking Water Treatment

- Research also focuses on developing methods to predict and characterize blooms with innovative technology.

BACKGROUND:

- HABs are overgrowths of toxin-producing algae (including cyanobacteria) in fresh or marine waters that can cause a variety of negative ecological, economic, and health impacts.

- Excessive concentrations of nutrients exacerbate the frequency and severity of blooms.

- The frequency, intensity, and duration of HABs can negatively impact drinking and recreational waters.

- *Accomplishment: Cyanobacteria Assessment Network (CyAN) mobile application*
  - The first platform for immediate HABs decision support for U.S. freshwater systems.
  - The CyAN app is operational and providing weekly data to collaborators. It is currently available to any state regulatory agency or health department for beta testing.

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FY 2019 PRESS CONFERENCE & HEARINGS
HOMELAND SECURITY NATIONAL RESEARCH PROGRAM

QUESTION: How does the Homeland Security Research Program support its stakeholders both internal and external to EPA?

ANSWER:

- The Homeland Security Research Program provides critical science to fulfill statutory emergency response and bioterrorism responsibilities, and supports EPA's efforts to help communities prepare for, respond to, and recover from disasters.
- EPA works collaboratively with internal and external stakeholders to improve drinking water utilities' ability to respond to contamination, as demonstrated during the Hurricane Maria and Harvey disasters.
- EPA will continue to strive to protect human health and the environment by prioritizing the following research activities:
  - Development of higher-throughput sampling approaches and analytical methods, decontamination technologies, and decision support tools for expedient and effective bio-agent remediation; and
  - Development of methods to decontaminate water infrastructure, including household plumbing, and manage the associated contaminated water, to bring water systems back online quickly.

BACKGROUND:

- EPA has responsibilities for protection of the Nation's drinking water infrastructure and supply, and for coordinating remediation of wide-area contamination events.
- EPA is also advancing wide-area decontamination approaches needed for incidents like the Fukushima Daiichi Nuclear Power Plant Accident.
- The Program sustained reductions in FY 19 in the following areas:
  - Strategies and methods for cleanup of chemical and radiological agents;
  - Computational tools and contamination sensors to enhance water systems' ability to prepare for and respond to environmental disasters; and
  - Research to inform voluntary standards and guidelines to reduce cyber risks to water infrastructure.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
S&T	$19.0M	49.8	$18.8M	49.8	$17.3M	45.5	-$1.7M	-4.3
SF	$1.2M	1.7	$1.2M	1.7	$1.5M	1.7	+$0.3M	0.0
Total*	**$20.2M**	**51.5**	**$20.0M**	**51.5**	**$18.8M**	**47.2**	**-$1.4M**	**-4.3**

*Totals may not add due to rounding; this accounts for ONLY the EPA Research and Development Program's Homeland Security funds

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FY 2019 PRESS CONFERENCE & HEARINGS
SCIENCE BOARDS

BACKGROUND:

EPA has 22 advisory committees that fall under the Federal Advisory Committee Act (FACA). These committees provide advice to the agency on issues that range from science and economics to air quality.

Administrator Pruitt recently announced his plan to appoint new leadership and new members to three important and independent advisory committees: the Clean Air Scientific Advisory Committee (CASAC), the Science Advisory Board (SAB), and the Board of Scientific Counselors (BOSC).

The Administrator also issued a new directive to ensure that any advisors serving on an EPA Federal Advisory Committee (FAC) are independent and free from any real, apparent, or potential interference with their ability to fairly and objectively serve as a committee member.

TALKING POINTS:

- Appointments of members to three important federal advisory committees: the Clean Air Scientific Advisory Committee (CASAC), the Science Advisory Board (SAB), and the Board of Scientific Counselors (BOSC).
- These committees will help Administrator Pruitt ensure that we are doing our best as an Agency to use independent scientific advice to inform sound decision-making.
- In a fair and transparent fashion, EPA reviewed the qualifications of hundreds of new individuals nominated for these committees. We received: 431 applications for the BOSC, 132 applicants for the SAB and 42 applicants for the CASAC.
- Opening the competitive nomination process to ensure fair consideration of nominees has resulted in appointments that increase diversity of scientific views and geographic areas.
- Members include those from the entire environmental stakeholder community – NGOs, academia, industry, and state, tribal and local officials. The makeup of the membership speaks to my commitment to science and willingness to listen to thoughtful expertise from all perspectives.
- Consistent with my directive on strengthening and improving membership on EPA's federal advisory committees, moving forward, non-governmental and non-tribal members will be independent from EPA, meaning that no member of any of EPA's federal advisory committees will be currently in receipt of EPA grants, or in a position that otherwise would reap substantial direct benefit from an EPA grant.
- Administrator Pruitt looks forward to working with these impressive committee members, who will bring their expertise and varied perspectives as they work and advise the Agency on complex science issues that EPA and our state, tribal, local and community partners face every day.

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Committee Background:

CASAC - The Clean Air Scientific Advisory Committee (CASAC) provides independent advice to the EPA Administrator on the technical bases for EPA's National Ambient Air Quality Standards. Established in 1977 under the Clean Air Act (CAA) Amendments of 1977 (see 42 U.S.C. § 7409(d)(2)).

- Dr. Tony Cox, a respected scientist and member of the National Academy of Sciences (National Academy of Engineering), has been appointed Chairman.
- By law, the CASAC is comprised of exactly 7 members and CASAC membership is required to include at least one member of the National Academy of Sciences, one physician and one person representing state air pollution control agencies.
- By the numbers:
    - 42 Nominated and Willing to Serve
    - 4 Current CASAC members (terms have not expired)
    - 2 Members will have shortened terms per directive; 1 Member's term expired
    - 3 New appointments

SAB – The Science Advisory Board provides scientific advice to the Administrator. Established in 1978 pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDDAA) (codified at 42 U.S.C. 4365).

- Dr. Michael Honeycutt, a respected toxicologist who works for the Texas Commission on Environmental Quality (TCEQ), has been appointed Chairman of the SAB.
- By the numbers:
    - 132 Nominated and Willing to Serve
    - 26 Current SAB Members (terms have not expired)
    - 6 Members will have shortened terms per directive
    - 17 New Appointments

BOSC - The Board of Scientific Counselors provides advice, information, and recommendations to EPA's Office of Research and Development (ORD) on technical and management issues of its research programs. Established as a discretionary federal advisory committee in 1996.

- Paul Gilman, a respected scientist at Covanta, has been appointed Chairman.
- By the numbers:
    - 431 Nominated and Willing to Serve
    - 10 Current BOSC Members (terms have not expired)
    - 1 Member will have Shortened Term Per Directive
    - 43 New Appointments, 27 Reappointments

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FY 2019 PRESS CONFERENCE & HEARINGS
SCIENCE TO ACHIEVE RESULTS (STAR)
GRANTS PROGRAM ELIMINATION

QUESTION: What is the status of the STAR grants program?

ANSWER:

- In FY 2019, EPA's Research and Development Program is eliminating the STAR grants program. EPA's Research and Development Program is focused on EPA's core mission of supporting human health and environment.
- The budget focuses on agency efforts in core statutory obligations and the Research Development program will directly support these efforts, for the most efforts discretionary grants are part of this focus.

BACKGROUND:

- Beginning in 1995, the STAR program funded research grants in numerous environmental science and engineering disciplines through a competitive solicitation process and independent peer review. More than 100 institutions utilized this program in recent years. Starting in FY 2019, EPA's relationship with these institutions will be eliminated.

- The STAR program engaged the nation's best scientists and engineers in targeted research that complements EPA's own outstanding intramural research programs.

- STAR grants were offered through 4 of EPA's national research programs:
  - Sustainable and Healthy Communities Program - Provided funding for the NIEHS/EPA Children's Centers, advanced knowledge of how children's health is impacted by the environment, genetics and other factors.
  - Chemical Safety and Sustainability Program - Advanced scientific understanding of the impacts of manufactured chemicals on ecosystem health.
  - Air and Energy (A&E) Program - Provided funding for the A&E centers to inform state and local policy makers regarding effective air pollution control strategies to reduce air pollution exposure.
  - Safe and Sustainable Water Resources Program - Provided funding for Green Infrastructure research which identified solutions for stormwater runoff prevention and contamination of local waterways.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted	FY 2018 ACR	FY 2019 Pres Bud	Delta FY 2017 ENA v. FY 2019 Pres Bud
S&T	$28.4M	$28.3M	$0.0M	-$28.4M
Total	**$28.4M**	**$28.3M**	**$0.0M**	**-$28.4M**

FY 2019 PRESS CONFERENCE & HEARINGS
IRIS: STATUS OF IMPLEMENTING PROGRAM RECOMMENDATIONS

QUESTION: How is the Research and Development Program addressing GAO's concerns from prior reports regarding its IRIS Program?

ANSWER: In response to recommendations from the National Academy of Sciences (NAS) and GAO, over the last several years, the IRIS Program has been making significant improvements:

- **GAO Review:** Over the last several years, EPA has been engaged in ongoing activities to address GAO recommendations. The 2017 GAO High Risk report noted significant improvement in their high-risk criteria ratings specific to the IRIS Program (see Table 1). Since that time the IRIS Program has continued to implement corrective actions to address GAO recommendations, including project management to optimize resource utilization and establish assessment timelines, reaffirming Agency stakeholder interest in assessments under development, and sharing new assessment plans and protocols to provide stakeholders and the public greater transparency. GAO initiated a follow up review in April 2018.

Table 1. Summary of 2015 and 2017 GAO High Risk Criteria Ratings

(rating component specific to the IRIS Program)

GAO High Risk Criteria	2015 Rating	2017 Rating
Leadership Commitment	Met	Met
Monitoring	Partially Met	Met
Action Plan	Partially Met	Partially Met
Demonstrated Progress	Not Met	Partially Met
Capacity	Not Met	Partially Met

- **NAS IRIS Review:** In April 2018, the NAS issued a consensus report on the progress of the IRIS Program in implementing recommendations from the Academies' 2011 and 2014 reports. In its overall conclusions the committee reported, "*The committee is encouraged by the steps that EPA has taken, which have accelerated during the last year under new leadership. It is clear that EPA has been responsive and has made substantial progress in implementing National Academies recommendations.*" The EPA is currently reviewing the recommendations described in the report to determine next steps.
- **Increase transparency** by fully implementing the principles of systematic review in assessments. Standard operating procedures (IRIS Handbook) and chemical assessment-specific protocols have been developed to provide transparency and consistency across assessments.
- **Modularize product lines.** IRIS implemented a portfolio of chemical evaluation products that optimize the application of the best available science and technology. These products will allow IRIS to remain flexible and responsive to customers within EPA as well as the diverse stakeholders beyond EPA, including states, tribal nations, and other federal agencies.
- **Modernize the IRIS Program and enhance accessibility by:**
    - Using specialized software applications and machine-learning tools to expedite assessment development;

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- Increasing outreach and training within and outside EPA; and,
- Promoting data sharing through publicly available software platforms for assessments developed by EPA, other federal and state agencies, industry, and third-parties.

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FY 2019 CONGRESSIONAL HEARING
ALASKA NATIVE VILLAGES RURAL ALASKA INFRASTRUCTURE PROGRAM
REDUCTION IN FUNDING

QUESTION: Why is there a reduction to the Alaska Native Village and Rural Alaska Infrastructure Program?

ANSWER:

- EPA's request of $3 million will improve the drinking water and/or wastewater services to approximately 350 homes in rural Alaska.
- Improving water infrastructure is one of this Administration's priorities.
- The State Revolving Funds are a source of infrastructure funding that can continue to fund water system improvements in Alaska.
- The recent FY 2018 Omnibus Appropriations bill provides $20 million restoring this program to the FY 2017 Enacted level.

BACKGROUND:

- The Alaska Native Village (ANV) program began in 1995. The program provides grants to the State of Alaska to fund improvements and construction of drinking water and wastewater treatment facilities for homes in rural and native villages.
- The State of Alaska administers the funding to bring piped water and wastewater systems to rural communities, or to provide individual wells and septic systems to rural communities not served by piped infrastructure.
- However, some ANVs do not qualify under state revolving fund loan requirements and funding is provided to support improvements in these geographically challenging areas. The ANV program has provided grants to address the discrepancy in infrastructure availability in rural Alaska as compared to the rest of the U.S.
- The estimated proportion of serviceable homes in rural Alaska that lack access to in-home running water and a flush toilet is 5%, compared to 0.67% for the remainder of the country.
- Investments in wastewater and drinking water infrastructure in rural Alaska and ANV communities contributed to an increase of access to water and sewer service from 60 percent in the late 1990s to a current level of 94.9%of serviceable rural Alaska homes.
- Alaskan rural and native water and sewer systems face not only the typical challenges associated with small system size, but also challenging geographic conditions such as permafrost, shortened construction seasons, and highly remote locations.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 Annualized CR		FY 2019 Pres Bud		Delta FY 2017 EN v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
STAG	$20.0M	0.0	$19.9M	0.0	$3.0	0.0	-$17.0M	0.0

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FY 2019 CONGRESSIONAL HEARINGS
ARSENIC COMPLIANCE AND VIOLATIONS

ISSUE: Small System Compliance with the Arsenic Rule

TALKING POINTS:

- The agency has seen a 90% reduction in the number of water systems with arsenic levels that exceed the 10 ppb standard.[3] The remaining water systems with arsenic exceedances are primarily privately-owned, serving fewer than 500 people.
- EPA works with states to target infrastructure investments and prioritize funding to assist small drinking water systems with meeting drinking water standards, including arsenic.
- EPA also encourages states to make use of their DWSRF set-asides and the disadvantaged assistance programs to support small systems that have arsenic violations.
- EPA continues to work with states, tribes, and drinking water systems to distribute information regarding available options to comply with Arsenic Rule; both treatment and non-treatment compliance options, as well as performance and cost effectiveness of available treatments.

BACKGROUND:

- Arsenic is known to cause cancer, and is one of the inorganic contaminants regulated under the Safe Drinking Water Act. In 2001, EPA adopted a lower standard of 10 parts per billion (ppb) for arsenic in drinking water, replacing the prior standard of 50 ppb.
- Public Water Systems had to comply with the lower arsenic standard by January 23, 2006.
- Many small drinking water systems initially faced challenges in meeting the arsenic standard. EPA continues to work with states to improve the technical, managerial, and financial capability of small systems to comply with drinking water standards, including arsenic. Particular areas of focus include asset management, water system partnerships (including regionalization and consolidation), and establishing appropriate water rates.
- Since FY 2012, EPA has awarded competitive grants to target training and technical assistance to small systems. These grants may be used to provide technical assistance and training for small systems with compliance challenges.

[3] When EPA promulgated the Arsenic Rule, 4100 water systems had arsenic levels that exceeded the new standard. As of September 2017, 410 water systems (a 90% reduction) exceeded the standard.

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FY 2019 CONGRESSIONAL HEARING
BRISTOL BAY PEBBLE MINE CWA SECTION 404(c) REVIEW

QUESTION: Why didn't EPA withdraw its CWA Section 404(c) Proposed Determination?

ANSWER:

- EPA published its proposal to withdraw its CWA Section 404 (c) Proposed Determination (PD) in July 2017 and took public comment, held two public hearings in the Bristol Bay region, and consulted with tribal governments and Alaska Native Claims Settlement Act (ANCSA) Corporations from the Bristol Bay region.
- EPA received more than a million public comments on its withdrawal proposal.
- After reviewing all of the public and tribal input and taking into consideration the recent developments regarding the submittal of Pebble Limited Partnership's (PLP) permit application, EPA has decided to suspend the withdrawal of the Proposed Determination at this time.

BACKGROUND:

- Pebble deposit: Since 2001, Northern Dynasty Minerals and its subsidiary PLP have been planning a large-scale open pit mine at the Pebble deposit in the Bristol Bay watershed. The Bristol Bay watershed in southwest Alaska supports the largest sockeye salmon fishery in the world. The fishery is valued at $1.5 billion annually, supports about 14,000 jobs and has served as a significant subsistence fishery for Alaska Natives for over 4000 years.
- 404(c) PD released by EPA in July 2014 outlines potential restrictions to limit the extent of salmon-supporting streams and wetlands that could be destroyed or degraded from the discharge of dredged or fill material related to mining the Pebble deposit.
- PLP Lawsuits: In 2014 PLP filed three lawsuits against EPA relating to EPA's work in the Bristol Bay watershed. A preliminary injunction associated with one of these lawsuits halted EPA's 404(c) review in November 2014. On May 11, 2017, PLP and EPA reached a settlement agreement resolving the remaining lawsuits.
- As part of the settlement agreement, EPA agreed to initiate a process to propose to withdraw its 2014 Clean Water Act Section 404(c) PD that proposed restrictions on the discharge of dredged or fill material into waters of the U.S. associated with developing a mine at the Pebble deposit.
- In December 2017, PLP submitted its CWA Section 404 permit application to the Army Corps proposing to develop a mine at the Pebble deposit and the Corps initiated its Section 404 permit review and NEPA review processes.
- On January 26, 2018, the EPA made a decision to suspend the withdrawal of its 2014 CWA Section 404(c) PD regarding a potential mine at the Pebble deposit. This decision neither deters nor derails the application process of Pebble Limited Partnership's proposed project. The project proponents continue to enjoy the protection of due process and the right to proceed.

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FY 2019 CONGRESSIONAL HEARING
CHESAPEAKE BAY PROGRAM

QUESTION: Why does the FY 2019 President's Budget replace the Chesapeake Bay Program with a more limited monitoring initiative?

ANSWER:

- EPA will continue to engage in meaningful discussions with Congress as well as our federal and state partners about how shared environmental goals related to this region can be achieved.
- This monitoring initiative supports state and local collection of water quality monitoring data and coordination of science, research, and modeling.
- The Chesapeake Bay is the largest estuary in the Nation and EPA is committed to improving environmental conditions and human health for Americans that live and work in the Chesapeake Bay region.
- Federal investment in monitoring progress in the Chesapeake Bay would help protect the important investment that federal, state and local governments have made in providing clean and safe water.
- The FY 2018 Omnibus Appropriations bill provides $73M for the Chesapeake Bay Program.

BACKGROUND:

- Section 117(b), as amended, of the Clean Water Act (CWA) calls for the Administrator of the EPA to maintain an office for the Chesapeake Bay Program. The partnership now includes watershed states (Delaware, Maryland, New York, Virginia, Pennsylvania, and West Virginia), the District of Columbia, the Chesapeake Bay Commission, and EPA (representing the federal government).
- The 2010 Bay Total Maximum Daily Load (TMDL) and the jurisdictions' Watershed Implementation Plans (WIPs) satisfy a CWA requirement and EPA commitments under Court-approved consent decrees for Virginia and Washington, D.C. The Chesapeake Bay Watershed Agreement (Agreement) was signed in 2014 and established 10 goals and 31 outcomes.
- In FY 2017, Chesapeake Bay Program partners surpassed their phosphorus- and sediment-reducing goals. Nitrogen reductions, however, fell short of the target for the fifth year in a row, due in large part to a gap in reported and implemented agricultural best management practices in Pennsylvania.
- By the end of FY 2018, the program expects to achieve 60 percent of its goals for implementing phosphorus and sediment reduction actions to achieve final TMDL allocations, but continues to fall short of the target for nitrogen reductions as measured through the Partnership's Phase 5.3.2 Chesapeake Bay Watershed Model.
- On Feb. 23, 2017, U.S. Reps. Robert Wittman (R-VA), Scott Taylor (R-VA), Barbara Comstock (R-VA), Donald Beyer (D-VA), Andy Harris (R-MD), Dutch Ruppersberger (D-MD), Donald McEachin (R-NY) and 10 others signed a letter to the President expressing support for $73 million in FY 2018 to continue collaboration among stakeholders and ensure continued progress in restoring the Chesapeake Bay.
- On March 17, 2017, U.S. Senators (9 total) representing six states signed a letter supporting continued funding for the Chesapeake Bay Program of at least $73 million, including Sens. Ben Cardin (D-MD), Joe Manchin (D-WV), Mark Warner (D-VA), Chris Van Hollen (D-MD), and Christopher Coons (D-DE).

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 Annualized CR		FY 2019 Pres Bud		Delta FY 2017 Enacted v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$73.0M	39.9	$72.5M	39.9	$7.3 M	0.0	-$65.7M	- 39.9

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FY 2019 CONGRESSIONAL HEARINGS
FDA-EPA NATIONAL ADVICE ABOUT EATING FISH

ISSUE/TOPIC: EPA and FDA joint advice on the consumption of fish

TALKING POINTS:

- EPA and FDA have been issuing joint advice on fish consumption since the early 2000s because the public eats fish that come from grocery stores as well as fish caught by friends and family. It is critical that the Agencies provide consistent information to the public.
- The nutritional benefits of eating fish are important for growth and development during pregnancy and early childhood. However, currently half of pregnant women eat less than a quarter of the recommended amount of fish likely due to concerns about contaminants in the fish.
- The 2017 Advice allows women to make informed choices by providing information on how often to eat more than 60 types of fish.

BACKGROUND:

- In 2017, the U.S. Environmental Protection Agency and the U.S. Food and Drug Administration issued final advice regarding fish consumption.
- This advice is geared toward helping women who are pregnant or may become pregnant – as well as breastfeeding mothers and parents of young children – make informed choices when it comes to fish that are healthy and safe to eat.
- To help these consumers more easily understand the types of fish to select, the agencies have created an easy-to-use reference chart that sorts 62 types of fish into three categories:
    - "Best choices" (eat two to three servings a week)
    - "Good choices" (eat one serving a week)
    - "Fish to avoid"
- Fish in the "best choices" category make up nearly 90 percent of fish eaten in the United States.

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FY 2019 CONGRESSIONAL HEARINGS
STATUS OF DRINKING WATER IN FLINT, MI

ISSUE: The status of the lead issue in Flint, Michigan's drinking water

TALKING POINTS:

- EPA continues to support the State of Michigan as it works to ensure that the residents of Flint have access to safe drinking water. Months of monitoring data show that lead levels are well below the Lead and Copper Rule action level.
- EPA supports the state's decision to continue to provide and maintain water filters for residents out of an abundance of caution.
- EPA is continuing its work to address issues with lead in drinking water, in coordination with its state and local partners. These actions include ongoing actions in communities affected by lead, including Flint, as well as longer term actions such as making revisions to strengthen the public health protections under the EPA's Lead and Copper Rule.
- In Flint, EPA has provided sustained federal support to State and local response efforts. EPA continues to oversee an enforcement order the Agency issued in January 2016.
- • • EPA continues to work with the State of Michigan and the City to implement the $100 million in supplemental federal Drinking Water State Revolving Fund funding aimed at reducing lead in Flint's drinking water system that Congress provided in the Water Infrastructure Improvements for the Nation (WIIN) Act.

BACKGROUND:

- Flint, Michigan drew national attention when the City ceased purchasing treated water from the Detroit Water and Sewerage Department and began to inadequately treat raw water from the Flint River, causing lead levels to spike in the homes of residents.
- In children, low levels of exposure of lead have been linked to damage to the central and peripheral nervous system, learning disabilities, shorter stature, impaired hearing, and impaired formation and function of blood cells.
- In October 2015, Flint returned to purchasing properly treated water from Detroit, and EPA established a Task Force to provide technical assistance to Michigan's Department of Environmental Quality and the City of Flint to ensure re-optimization of corrosion control in the drinking water system as quickly as possible.
- In January 2016, EPA issued an emergency order under the Safe Drinking Water Act to the State of Michigan and the City of Flint, requiring them to take steps to protect public health. Among other things, the order requires the parties to maintain optimized corrosion control within the Flint drinking water system and to provide adequate staffing to operate the system. The EPA continues to oversee the State's and the City's compliance with the order.
- On November 16, the Michigan State Treasurer agreed to forgive $20.7 million of past Flint debt under the Drinking Water State Revolving Fund, as authorized by the 2016 WIIN Act. On August 1, in response to a request from the State of Michigan, the EPA had concurred with the State of Michigan that this debt was eligible for forgiveness.
- On November 29, 2017, the City of Flint entered into a long-term agreement with the Great Lakes Water Authority (Detroit), which will maintain the City's current water source for the next 30 years.
- On April 4, 2018, Michigan Governor Rick Snyder announced that as a result of continued low levels of lead in Flint drinking water, the State would cease distributing bottled water to Flint

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residents when current bottled-water supplies are exhausted. The State will continue to provide water filters and replacement cartridges to residents upon request.

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FY 2019 CONGRESSIONAL HEARINGS
FLORIDA HUMAN HEALTH CRITERIA

ISSUE/TOPIC: Florida's Development of Revised Human Health Water Quality Criteria

TALKING POINTS:

- On February 9, 2018, Florida gave notice that it was withdrawing its 2016 proposed amendments to its human health criteria, and initiating rulemaking to consider further revisions to the criteria.
- Florida also announced its intention to conduct a state-wide fish consumption survey to accurately determine the amount and types of fish commonly eaten by Floridians in advance of criteria development and adoption. Florida plans to work cooperatively with tribes to design and implement a survey that addresses traditional cultural practices and applicable reserved rights. The survey and subsequent analysis of the data will take approximately three years.

BACKGROUND:

- Under the Clean Water Act (CWA), States are required to conduct a comprehensive review of their surface water quality standards approximately every 3 years.
- Florida updated their human health-based water quality criteria in July 2016 to incorporate new scientific information, including EPA's latest national recommendations, and Florida-specific data to ensure that Floridians can safely eat Florida fish and drink local tap water.
- Four parties (Seminole Tribe of Florida (TOF), City of Miami, Florida Pulp and Paper Association (FPPA), and Martin County) filed rule challenges, and all four challenges were dismissed on September 13, 2016, because they were not filed timely. Three of the petitioners (TOF, City of Miami, and FPPA) appealed the decision to the District Court of Appeals, and the District Courts of Appeals found the petitions were timely.
- On May 23, 2017, EPA signed a response to a June 2009 petition for rulemaking from the Florida Clean Water Network. The petition requests that EPA establish new water quality standards for toxic pollutants to protect human health in Florida. EPA denied the petition in light of Florida's significant progress in developing and adopting revised human health criteria that will be submitted to EPA in the near future.

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FY 2019 CONGRESSIONAL HEARING
FLORIDA POWER & LIGHT TURKEY POINT NUCLEAR PLANT

QUESTION: How is EPA helping address impacts associated with Florida Power & Light's Turkey Creek nuclear generating station?

ANSWER:

- EPA provided extensive technical assistance to Florida Power & Light, the Nuclear Regulatory Commission, Florida Department of Environmental Protection (FDEP) and local governments regarding surface water impacts to Biscayne Bay and groundwater impacts to the Biscayne Aquifer from existing operations at the nuclear plant near Homestead, Florida.
- Technical assistance included site visits to help identify potential sources of discharge from the Turkey Point cooling canals into Biscayne Bay and reviewing groundwater models that were used to select a remediation method for a hypersaline plume contaminating the Biscayne Aquifer.
- EPA also drafted comment letters for the Nuclear Regulatory Commission's Draft and Final Environmental Impact Statements regarding Florida Power & Light's Combined Operating Licenses for the construction and operation of nuclear plants 6 and 7. It is EPA's understanding that Florida Power & Light has decided to no longer pursue these licenses because the low price of natural gas has made the construction and operation of the facility no longer financially feasible.

BACKGROUND:

- Miami-Dade County and FDEP entered into consent agreements with Florida Power & Light pertaining to the environmental issues at Turkey Point (County, 10-6-15: FDEP, 6-20-16). The agreements addressed the western migration of hypersaline water emanating from the cooling canal system at the site, and how to go about halting and remediating these impacts.
- Florida Power & Light has drilled wells to extract hypersaline water from the shallow Biscayne Aquifer, and FDEP is in the process of permitting a deep injection well that will be used for disposal of the extracted water.
- Florida Power & Light is preparing to issue a comprehensive summary report detailing the studies conducted to date to evaluate the impact of the facility on environmental issues in Biscayne Bay. FDEP has agreed to send EPA a copy of the report once it is finalized.
- FDEP is currently in the process of drafting for the facility an NPDES permit they plan to reissue in late 2018. The draft permit will contain enhanced inspection of the berms and will require corrective measures to be taken if seepage of pollutants continues to be detected in Biscayne Bay.
- EPA will get a chance to review the pre-draft permit before it goes out for public comment. The purpose of this review is to identify any major issues that need additional clarification and/or modification. Specifically, EPA will look at monitoring and effluent limits to ensure water quality protection of Biscayne Bay, as well as reducing the migration of the hypersaline plume further west.

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FY 2019 CONGRESSIONAL HEARINGS
FUNDING TECHNICAL ASSISTANCE TO RURAL AND URBAN WATER SYSTEMS

ISSUE: EPA is not requesting funding for technical assistance to rural and urban communities to improve water quality and provide safe drinking water through a competitive grant.

TALKING POINTS:

- This program elimination is part of the administration's overall goal to return the responsibility for regional and local environmental work to state and local entities.
- This budget request focuses on funding core programs with a national scope.
- Many states utilize the 2% set aside of their Drinking Water State Revolving Fund (DWSRF) capitalization grant to provide technical assistance to small systems, and states have authority to use other DWSRF set-asides for technical assistance as well.

BACKGROUND:

- In years prior to 2011, Congress earmarked funds for the National Rural Water Association, the Rural Community Assistance Partnership, and others to provide technical assistance.
- In FY 2012 Congress appropriated $15 million for a National Priority competitive grant for technical assistance to urban and rural water and wastewater systems.
- Each year following FY 2012, $12.7 million has been appropriated for this purpose, even though these funds have never been included in the President's budget request.
- Results of the FY 2017 competition are as follows:
    - National Rural Water Association - $4.0 million to provide training and technical assistance for small public water systems focused on technical capacity to achieve and maintain compliance.
    - Rural Community Assistance Partnership - $4.0 million to provide training and technical assistance for small public water systems focused on technical capacity to achieve and maintain compliance.
    - University of North Carolina at Chapel Hill Environmental Finance Center - $1.8 million to help small public water systems improve their financial and managerial capabilities.
    - Rural Community Assistance Partnership - $1.2 million to provide training and technical assistance to small POTWs and onsite/decentralized wastewater systems.
    - Rural Community Assistance Partnership - $1.7 million to provide private drinking water well owners with information to protect their supply and improve water quality.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2018 ACR v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$12.7M	0.0	$12.7M	0.0	$0.0M	0.0	-$12.7M	0.0

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FY 2019 CONGRESSIONAL HEARINGS
GEOGRAPHIC PROGRAM ELIMINATIONS

QUESTION: Why has EPA eliminated Office of Water's geographically based programs?

ANSWER:

- This budget request focuses on funding core programs with a national scope and returns responsibility for regional and local environmental work to state and local entities.
- This budget reflects EPA's role in a model of cooperative federalism that emphasizes strong cooperative state and tribal partnerships and is guided by Congressional direction in core environmental statutes.
- The FY 2019 President's Budget recognizes the unique federal role in regional multi-state programs and provides some funds for water quality monitoring activities in the Chesapeake Bay and Great Lakes. This will contribute to the improved collection, evaluation, management, and reporting of environmental information that will inform policy decisions by environmental managers.
- In the FY 2018 Omnibus Appropriations Act, all geographic programs were restored at least to the FY 2017 Enacted levels; with increased funding for three programs - Gulf of Mexico (+$4M), Lake Champlain (+$4M), and Long Island Sound (+$4M).

BACKGROUND:

- The FY 2019 President's Budget eliminates 7 of the 9 geographically based programs in the Office of Water (OW).
    - Eliminated: Gulf of Mexico, Puget Sound, San Francisco Bay, Long Island Sound, Lake Champlain, South Florida, and Geo Program – Other.
    - Chesapeake Bay Program and Great Lakes Restoration Initiative were replaced with monitoring initiatives.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 Enacted		FY 2019 Pres Bud		Delta FY 2017 Enacted v. FY 2019 Pres Bud	
EPM	$	FTE	$	FTE	$	FTE	$	FTE
Gulf of Mexico	$8.5 M	14.3	$12.5 M	14.3	$0.0M	0.0	-$12.5 M	-14.3
Puget Sound	$28.0 M	6.0	$28.0 M	6.0	$0.0M	0.0	-$28. M	-6.0
SF Bay	$4.8 M	1.9	$4.8 M	1.9	$0.0M	0.0	-$4.8 M	-1.9
Long Island Sound	$8.0 M	0.0	$12.0 M	0.0	$0.0M	0.0	-$8.0 M	0.0
Lake Champlain	$4.4 M	0.0	$8.4 M	0.0	$0.0M	0.0	-$8.4 M	0.0
South FL	$1.7 M	1.4	$1.7 M	1.4	$0.0M	0.0	-$1.7 M	-1.4
Geo Other	$7.4 M	4.9	$7.4 M	4.9	$0.0M	0.0	-$7.4 M	-4.9

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Total	$[=8.5+28.0+4.8+8+4.4+1.7+7.4] M	[=SUM(ABOVE)]	$74.8 M	28.5	$0.0 M	0.0	-$62.8 M	-28.5

FY 2019 CONGRESSIONAL HEARING
GREAT LAKES RESTORATION INITIATIVE (GLRI)

QUESTION: Why does the FY 2019 President's Budget replace the Great Lakes Restoration Initiative (GLRI) with a more limited $30M monitoring initiative?

ANSWER:

- EPA is committed to working with Congress as well as our federal and state partners to protect human health, support economic growth, and improve environmental conditions for Americans that live and work in the Great Lakes region.
- The Great Lakes are an important part of the U.S. fresh water supply, provide economically valuable commercial and recreational fisheries, and support billions of dollars in interstate and international waterborne commerce annually.
- EPA will support environmental managers in the eight Great Lakes states as well as in tribal and local entities through Great Lakes system-wide monitoring for the improved collection, evaluation, management, and reporting of Great Lakes environmental information.
- By supporting programs that measure and assess the physical, biological, and chemical integrity of the Great Lakes, this program will link numerous existing Great Lakes monitoring activities to improve the scientific basis for policy decisions by environmental managers.
- The 2018 Omnibus Appropriations bill provided $300M for this program, restoring the program to the FY 2017 Enacted level.

BACKGROUND:

- Since its inception in 2010, GLRI has: (i) been central to protecting the region's multi-billion-dollar fishery by keeping self-sustaining Asian carp populations out of the Great Lakes; (ii) protected, restored, or enhanced more than 225,000 acres of habitat; and (iii) achieved removal of 67 beneficial use impairments at 23 Areas of Concern – more than six times the number removed in the preceding 22 years.
- In March 2018, 65 Members of Congress signed a letter to the Appropriations Subcommittee on Interior, Environment and Related Agencies requesting $300 million for GLRI in the FY 2019 Appropriations bill. Individual members of the House Appropriations Committee who advocated for this funding level included: David Joyce (R-OH), Mike Quigley (D-IL), and Betty McCollum (D-MN) (Interior and Env. Subcommittee ranking member). 61 other House members also supported GLRI funding at $300 million in July 2017 (22 R, 39 D).
- Senate Appropriation Committee members Richard Durbin (D-IL) and Tammy Baldwin (D-WI) are on the Senate Great Lakes Task Force.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 Enacted		FY 2019 Pres Bud		Delta FY 2017 EN v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$300.0M	71.7	$300.0M	71.7	$30.0M	5.0	- $270.0M	- 66.7

ADDRESSING HARMFUL ALGAL BLOOMS (HABs) IMPACTING DRINKING WATER

ISSUE: Addressing harmful algal blooms that impact drinking water

ANSWER:

- EPA continues to work with other federal agencies, states, tribes and drinking water utilities to implement an Algal Toxin Risk Assessment and Management Strategic Plan for drinking water as mandated by the Drinking Water Protection Act signed in 2016.
- In addition, the EPA, states, tribes, and drinking water utilities are:
  - implementing plans to monitor the nation's drinking water systems to determine the extent of contamination by algal toxins,
  - collaborating on workshops to protect drinking water sources, and
  - identifying approaches to reduce nutrient pollution that often fuels HABs.
- Since EPA's June 2015 release of the drinking water health advisories and the associated recommendations document for managing algal toxins in drinking water, the agency has also developed the following resources to support states and public water systems:
  - a drinking water cyanotoxin risk communication toolbox,
  - a drinking water treatment optimization document, and
  - templates and examples of cyanotoxin management plans.
- This spring, EPA is working with states and water systems to launch a first-time national monitoring effort for algal toxins in drinking water through EPA's fourth Unregulated Contaminant Monitoring Rule.

BACKGROUND:

- Harmful algal blooms (HABs) are a growing health and economic concern in the United States. HABs can produce dangerous toxins, known as cyanotoxins or algal toxins, in fresh and marine waters. HABs often result in surface waters with high levels of nutrients (nitrogen and phosphorus) and warmer temperatures. They have caused significant economic losses to the fishing and recreation industries and have forced some communities to obtain alternative drinking water supplies and agriculture irrigation water supplies during emergency situations. HABs have also increased costs to manage and treat potable water supplies.
- Cyanotoxins may harm the liver, kidney and nervous system in humans and animals. Conventional drinking water treatment can generally remove intact cyanobacterial cells and low levels of cyanotoxins from source waters. However, water systems may face challenges in providing drinking water during a severe bloom event when there are high levels of cyanobacteria and cyanotoxins in source waters.
- The governor of Ohio declared a state of emergency in August 2014 to address the drinking water emergency in the city of Toledo caused by a major HAB event on Lake Erie. The EPA provided considerable technical and laboratory support to the state and the city during this emergency.
- The EPA released drinking water health advisories and recommendations for managing algal toxins in drinking water in 2015. Although there have been detects and advisories for cyanotoxins in some smaller systems since the release of these documents, no major U.S. drinking water system has issued a do not drink advisory related to HABs.

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- In 2016, the Drinking Water Protection Act was signed mandating EPA to develop a strategic plan for assessing and managing the risks of algal toxins impacting public drinking water systems.

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FY 2019 CONGRESSIONAL HEARINGS
ILLINOIS RIVER WATERSHED MODELING

ISSUE: EPA is developing water quality models for Lake Tenkiller in Oklahoma and the Upper Illinois River Watershed in northwest Arkansas and northeast Oklahoma.

TALKING POINTS:

- The EPA is developing water quality models to support ongoing efforts by the States of Arkansas and Oklahoma and the Cherokee Nation to address water quality impairments in the Illinois River Watershed and Lake Tenkiller.
- EPA will provide final versions of the water quality models to our state and Tribal partners, along with extensive text documentation, to support their efforts to reduce the impact of nutrients in the Illinois River Watershed and Lake Tenkiller.
- This effort exemplifies how the EPA and the states can work together to meet their CWA requirements even when challenges cross state lines.

BACKGROUND:

- The EPA's efforts to develop two water quality models, one for the Illinois River Watershed Basin and another for Lake Tenkiller, began in late 2009.
- In cooperation with the Cherokee Nation and the States of Arkansas and Oklahoma, the EPA Region 6 developed draft water quality models to address nutrient (especially phosphorus) impairments in the Illinois River Watershed and Lake Tenkiller. Portions of the river in Oklahoma are included on the states' Clean Water Act Section 303(d) lists of impaired waters. Lake Tenkiller is listed as impaired by the State of Oklahoma.
- Between April and November of 2016, Region 6 convened a total of six Technical Workgroup Meetings with state and tribal representatives to refine draft versions of the models. Oklahoma and Arkansas provided detailed comments on the modeling efforts.
- Region 6 revised the draft models to improve their calibrations in response to state and Tribal stakeholder comments, and has built broad consensus among the regulatory partners in both Oklahoma and Arkansas that the models are ready to be used for evaluating water quality restoration approaches.
- Having revised earlier versions of the models to resolve technical issues raised by the tribe and the states, EPA and our state and Tribal partners consider the models ready for review by external stakeholders, including municipalities, industry, and environmental interest groups. Once stakeholder comments are received, EPA will work with our state and Tribal partners to evaluate the comments and effect any necessary changes to the models.
- Phosphorus levels in the Illinois River are impacted by municipal discharges and nonpoint sources (e.g., runoff from poultry litter application sites). Downstream impacts to Lake Tenkiller are reflected by high chlorophyll-*a* and low dissolved oxygen levels in the water, which result from nutrients including phosphorus.
- In August of 2016, members of the Arkansas and Oklahoma Congressional Delegations expressed interest in the EPA's modeling efforts on behalf of their constituents. Responses were provided in September and November of 2016.
- Since the beginning of the project, the EPA has expended about $1.5M. The EPA has committed approximately 0.5 FTE to overseeing the project.

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FY 2019 CONGRESSIONAL HEARING
LEAD AND COPPER IN DRINKING WATER

QUESTION: What is EPA doing about lead in drinking water?

ANSWER:

- EPA is committed to working with our partners to address the public health risks associated with lead in drinking water.
- EPA is carefully considering stakeholder input and the lessons from Flint as we develop proposed revisions to the Lead and Copper Rule (LCR). We plan to incorporate technology and health-based elements to ensure effective reductions of lead in drinking water.

BACKGROUND:

- The FY 2019 President's Budget request includes $863.2 million for the Drinking Water State Revolving Fund, allowing states to finance high priority infrastructure investments, including the replacement of lead service lines to protect human health.
- On January 8, 2018, EPA initiated outreach to stakeholders in a required process outlined by Executive Order 13132 – 'Federalism'. The EO instructs the Agency to consult with elected state and local government officials or their representative national organization, when developing regulations and policies that impose compliance costs to state and local government. Written comments are due to the Agency by March 8.
- Exposure to lead is known to present serious health risks to the brain and nervous system of children. Children can be exposed to lead from soil, paint, dust, air, food and drinking water.
- The lead crises in Flint, Michigan and East Chicago, Illinois have brought to the forefront the challenges many communities across the country are facing, including from lead service lines and leaded plumbing materials that can contaminate drinking water.
- The LCR was promulgated in 1991 to address these challenges but its effectiveness is limited by complexities with the implementation of the rule as well as the degree of expertise required by states and systems to optimize corrosion control treatment and conduct compliance sampling.
- EPA is considering recommendations from states, the National Drinking Water Advisory Council, stakeholders, and lessons learned from Flint and other public water systems in developing proposed revisions to the LCR.
- In FY 2017, Congress appropriated and EPA awarded $100 million to the State of Michigan for the lead emergency in Flint.
- On November 29, 2017, the City of Flint entered into a long-term agreement with the Great Lakes Water Authority (Detroit), which will maintain the City's current water source for the next 30 years.

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FY 2019 CONGRESSIONAL HEARINGS
DESIGNATION OF THE EASTERN LONG ISLAND SOUND DREDGED MATERIAL DISPOSAL SITE

ISSUE: Status of the Eastern Long Island Sound Dredged Material Disposal Site litigation.

TALKING POINTS:

- EPA is committed to the restoration and protection of Long Island Sound (LIS) including the cost effective and environmentally sound disposal of dredged material.
- EPA has filed its answer to the complaint filed by the State of New York as well as its amended answer to the Town of Southold's amended complaint. All briefings on the merits of the dispute will be complete on December 14, 2018, after which the court is likely to schedule a hearing, presumably within 6-8 weeks, before rendering a decision.

BACKGROUND:

- LIS, an estuary shared by Connecticut (CT) and New York (NY), has dredged material disposal sites that have been the center of a dispute between the two states for many years.
- Dredging is necessary to maintain safe navigation and important for the economy of LIS, and dredging maintains deep channels for the submarine base in New London, CT.
- Under the Marine Protection, Research and Sanctuaries Act (MPRSA), EPA designates and manages, and monitors sites for disposal of dredged material from such channels.
- The Army Corps of Engineers issues MPRSA permits (or applies applicable provisions to its own federal projects) for disposal of dredged material subject to EPA concurrence. All dredged material proposed for disposal at the Eastern LIS site will be thoroughly tested and managed, and only suitable material will be allowed to be disposed at the site.
- Litigation Timeline:
  - In December 2016, EPA issued a final rule to designate the Eastern LIS ocean disposal site in CT waters to serve the dredged material disposal needs of the states of CT and NY. NY Governor Cuomo issued a notice of intent to sue EPA over the site designation.
  - On August 17, 2017, NY filed suit alleging the site violates the MPRSA, the Coastal Zone Management Act and the Administrative Procedure Act.
  - On December 29, 2017, EPA filed its answer to the complaint.
  - On January 2, 2018, the court granted requests for intervention from CT Department of Energy and Environmental Protection and the Town of Southold, NY.
  - On January 12, 2018, EPA sent a response letter to NY State Department of State with a revised schedule for completion of related FOIA requests.
  - On February 2, 2018, the court granted Fisher's Island Conservancy, the Town Brookhaven, Riverhead, and Huntington's motion for leave to file amicus briefs.
  - On March 26, 2018, EPA filed its Amended Answer to Southold's Amended Complaint.
  - On March 27, 2018, the County of Suffolk moved to intervene, and the Connecticut Maritime Coalition and New Haven Port Authority moved to appear in the litigation.
- NY's motion for judgment on the pleadings is due August 31, 2018. EPA's opposition brief/ cross-motion is due October 31, 2018, with NY's response by November 21, 2018. EPA files a sur-reply on December 12, 2018. All briefings will be complete by December 14, 2018.

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FY 2019 CONGRESSIONAL HEARINGS
MIDDLE SNAKE RIVER, IDAHO TMDL MODIFICATION AND TWIN FALLS NPDES PERMIT REISSUANCE (updated April 18, 2018)

ISSUE: Status of the revision of Middle Snake River TMDL and/or reissuance of the Twin Falls NPDES permit

TALKING POINTS:

- Idaho DEQ plans to revise the Middle Snake River TMDL. The state of Idaho is in the best position to update the Snake River TMDL to factor in current river conditions.
- Idaho has convened a Technical Advisory Committee to advise IDEQ and the watershed advisory group (WAG) on technical and policy matters regarding the TMDL revision. EPA is an active participant in these groups.
- EPA plans to delay NPDES permit issuance, including NPDES permits for affected communities, as appropriate, as long as progress continues on revising the TMDLs (with the exception of one draft permit for Jerome Cheese, which U.S. EPA intends to propose in the near future).

BACKGROUND:

- The Snake River in the Twin Falls area of Idaho (also called the Magic Valley) is impaired for nutrients, such as phosphorous, and experiences levels of algae growth that impair the beneficial use of the river.
- The current Middle Snake Total Maximum Daily Load (TMDL), approved in 2005, establishes load allocations for sources that contribute nutrients to the river, which include municipal wastewater treatment plants, industrial facilities, and non-point sources.
- All of the NPDES permits in the watershed are expired and need to be reissued with terms and conditions that address the ongoing nutrient problem.
- On May 2, 2017, the local WAG voted to recommend that the State of Idaho revise the TMDL due to United States Geological Service (USGS) data that show in- stream targets are not being attained, and that flow is much lower than assumed in previous analysis.
- EPA is the NPDES permit authority in Idaho, although the state is on a schedule to gain program approval in mid-2018. Permits include 5 municipal wastewater plants, 1 industrial facility, and 70 aquaculture facilities.
- Updating the TMDL to current conditions would result in a plan that restores the river's health and protects aquatic life and valuable recreational uses of this waterway. The TMDL would also allow predictable NPDES permit limitations and maximum flexibility for permitted point sources.
- The Idaho Congressional delegation and the State of Idaho have relayed concerns from local interests regarding stringent permit requirements that would result if permits were issued in advance of the TMDL revision.
- The Jerome Cheese permit is moving forward due to a litigation challenge against EPA for unreasonable delay in issuing that permit.

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FY 2019 CONGRESSIONAL HEARING
MULTIPURPOSE GRANT PROGRAM

QUESTION: What is the Multipurpose Grant Program in the FY 2019 President's Request?

ANSWER:

- This new grant program is to assist states and tribes with the implementation of mandatory statutory duties in delegated environmental programs.
- Recognizing that environmental challenges vary due to variations in geography, population density, and other factors, these funds support state-determined priorities in addressing their statutory responsibilities to protect human health and the environment.
- FY 2019 is the first year EPA has requested funds for this program. Funds will be allocated by formula that is still to be determined.
- The FY 2018 Omnibus provided $10 million for Multipurpose grants to States and Tribes. The report indicates that the Committee was disappointed with the agency's funding formula used in FY 2016 and directs the Agency to give maximum flexibility to states to determine where funds from this grant program are of most value.

BACKGROUND:

- The FY 2016 Consolidated Appropriations Act provided almost $21 million for EPA to issue grants to states and tribes to assist with implementing environmental programs.
- EPA provided almost $20 million to states and territories to support implementation of air and state-led activities and other state-defined high priority activities. In addition, $1 million went to tribes that had obtained authorization to develop water quality standards.
- The FY 2019 Presidents Budget proposes project eligibility be limited to mandatory statutory duties imposed under delegated programs, while maintaining flexibility for states to determine which priorities/environmental media to address.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 Annualized CR		FY 2019 Pres Bud		Delta FY 2017 EN v. FY 2019 Pres Bud	
STAG	$0.0	0.0 FTE	$0.0	0.0 FTE	$27.0	0.0 FTE	+$27.0	0.0 FTE

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NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITTING

ISSUE: The NPDES permitting program has become more comprehensive and complex while resources have been constrained, creating the need for modernization and streamlining.

TALKING POINTS:

- Due to increasing permitting complexities and resource constraints, states and the EPA will have to develop creative approaches and streamlined procedures, and deploy new information management tools, to maintain and improve the effectiveness of the NPDES permitting program.
- The EPA is implementing LEAN principles by tracking key metrics and conducting a Kaizen event as part of its effort to reduce the time it takes EPA to issue NPDES permits.

BACKGROUND:

- The Federal Water Pollution Control Act Amendments in 1972 established the core NPDES program. All discharges of pollutants from point sources to waters of the U.S. require an NPDES permit. The permit term cannot exceed 5 years (statutory).
- States/tribes can apply to administer the NPDES permitting program by demonstrating to the EPA that the state or tribe has adequate legal, technical, and financial capabilities. 46 states currently have authorized programs. The EPA is currently the permitting authority for Idaho, Massachusetts, New Hampshire, New Mexico; the District of Columbia; all tribes except in Maine; and all territories except the Virgin Islands.
- Permitting authorities can provide permit coverage to point sources in one of two ways: 1) a unique permit for each discharger (i.e. "Individual Permit"); or, 2) an "umbrella" permit that covers a large number of similar dischargers (i.e. "General Permit"). Approximately 94% of the permitted universe is covered under a general permit.
- Nationally, at the end of FY 2017 approximately 10.8% of permits were backlogged [4] ;89.2% of facilities were covered by current permits. Factors that contribute to the permit issuance process include the public comment period, Endangered Species Act consultations, litigation and lawsuits, and other documentation requirements.
- EPA headquarters leads the issuance of the Vessel General Permit, the Pesticides General Permit, the Construction General Permit for stormwater discharges, and the Multi-Sector General Permit for industrial stormwater discharges.
- EPA has promoted an Integrated Planning (IP) approach to offer municipalities an opportunity to meet water quality goals in a timely and cost-effective manner. In the Report accompanying the FY18 Omnibus Appropriation, Congress directed the EPA to maintain technical assistance and outreach to communities seeking to implement an IP approach. The Committees also urged the EPA to implement IP measures through a flexible permit process rather than enforcement actions and consent degrees.
- EPA recently launched a stormwater planning initiative to help communities take a comprehensive approach to stormwater management on a long time horizon.

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[4] *The NPDES backlog measure includes all major individual, non-stormwater minor individual, and non-stormwater general NPDES permits other than EPA's Vessels General Permit.

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FY 2019 CONGRESSIONAL HEARINGS
NUTRIENTS/HYPOXIA TASK FORCE (HTF)

ISSUE: EPA needs to address nutrient pollution.

TALKING POINTS:

- EPA will continue to foster and support partnerships and collaboration with states and tribes which are critical to making sustained progress on reducing this significant threat to water quality and public health. In particular, we will continue to support high-priority actions proposed by states and tribes to make progress.
- HTF states are implementing individual State Nutrient Reduction Strategies with support of federal, state Land Grant extension, and other partners; these key strategies integrate, strengthen, and quantify nutrient load reductions at the basin level from all sources.
- The HTF tracks nutrient reduction progress through a variety of datasets and metrics (including point and nonpoint source reports), with key EPA managed databases.

BACKGROUND:

- Nutrient pollution is widespread and costly: while progress is apparent in some notable areas, nutrient pollution remains the biggest current threat to Americas' waters.
- Excess nutrients increase costs for managing and treating potable water supplies, cause illness from contact with contaminated recreational waters, and have caused economic losses to the fishing and recreation industries.
    - Nutrient pollution also contributes to an increased trend in observed harmful algal blooms in surface waters that can release toxins posing concerns to human health.
- Many U.S. waters are polluted with excess nutrients, e.g., more than 15,000 nutrient-related Impairment Listings, more than 3 million acres of lakes and reservoirs, and 110,000 miles of rivers and streams. (These are underestimates, because states do not assess all their waters.)
- EPA Office of Water provides Technical Assistance support to projects addressing nutrient pollution, including watershed and partnership approaches taken by state and local governments that address both nonpoint and point sources.
- In 2011, EPA issued a national call to action and a framework for collaboration with states and stakeholders. In 2016, EPA renewed that call to action and increased funding available for technical assistance to support projects larger in scope and impact.
- U.S. waters are exhibiting a high proportion of eutrophication symptoms.
    - 78% of assessed continental U.S. coastal area is impacted by eutrophication.
    - There are 168 hypoxic zones in U.S. waters, including an immense zone in the northern Gulf of Mexico.
- The HTF is a partnership of twelve states, five federal agencies and the National Tribal Water Council that works collaboratively to meet a shared goal to reduce a low-oxygen "dead" zone that forms each year in the Gulf of Mexico. The hypoxic zone significantly impacts the Gulf fishing economy and ecological health.
- The Hypoxia Task Force (HTF) goal is to reduce nutrient loading to the Gulf by 45% (compared to the 1980-1996 baseline), with the expected response to limit the average extent of the Gulf of Mexico hypoxic zone to less than 5,000 square kilometers by 2035. Funding for the Hypoxia Task Force falls under the NEP/Coastal Waterways Program Project which has been proposed for elimination in the FY 2019 budget.

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FY 2019 CONGRESSIONAL HEARINGS
OREGON'S COASTAL NONPOINT PROGRAM (CNP)

ISSUE: Oregon should get full Section 319 funding for nonpoint source pollution efforts.

TALKING POINTS:

- NOAA and the EPA are working closely with Oregon as it makes necessary improvements to its forestry program. Once those improvements are adopted the state can resubmit its coastal nonpoint program (CNP) for review by the federal agencies.
- On approval of the CNP full funding can be restored for NOAA and EPA grants.

BACKGROUND:

- Oregon does not meet the legal requirements of the 1990 Coastal Zone Act Reauthorization Amendments (CZARA), and as a consequence, does not receive 30% of its §319 funding.
- The CZARA is jointly administered by the National Oceanic and Atmospheric Administration (NOAA) and the EPA. The CZARA requires any coastal state and territory which chooses to participate in the NOAA-administered coastal management program to develop a coastal nonpoint program. A total of 34 states and territories participate.
- The CZARA requires the EPA to withhold a portion of annual §319 funds for any state with a federally disapproved coastal nonpoint program, as well as NOAA to withhold a portion of its coastal management funds. The EPA-administered CWA §319 funds help implement statewide nonpoint source programs; NOAA-administered CZMA §306 funds help administer state coastal management programs largely unrelated to controlling nonpoint source pollution.
- A portion of Oregon's §319 funding (30%) has been withheld since 2015 as a consequence of a determination by NOAA and EPA that Oregon failed to submit an approvable CNP, as required under the CZARA.
- Although Oregon has made significant progress on meeting many of its CNP requirements, the state has not put in place forestry practices that are protective of water quality and designated uses, specifically with respect to riparian protection for streams; practices that reduce sediment runoff from legacy roads; practices that reduce sediment runoff from landslides; and practices that assure herbicides are properly applied.
- The federal agencies continue to provide support to Oregon as it considers how best to move forward to enhance its forest management program. The efforts the state makes to meet its CZARA requirements are also vital for the recovery of coho salmon.
- As a consequence of litigation, NOAA and the EPA were required to make a decision to approve or disapprove Oregon's coastal nonpoint program by January 2015. Oregon did not meet CZARA program requirements by that deadline.

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FY 2019 CONGRESSIONAL HEARINGS
PERFLOURINATED COMPOUNDS

QUESTION: What actions are being taken to address Per- and Polyfluoroalkyl substances (PFASs) such as PFOA and PFOS in drinking water?

ANSWER:

- EPA is committed to supporting states, tribes and local communities in addressing challenges with PFAS contamination and is working to provide tools to state and local partners to address PFAS in the environment.
- EPA is developing toxicity values for PFAS, developing new laboratory methods for measuring PFAS in the environment, and assessing treatment techniques to remove PFAS from water and other environmental media.
- EPA will host a National Leadership Summit in May where participants will discuss efforts to characterize risks, develop monitoring and treatment techniques, identify near-term actions to address challenges facing states and communities, and develop risk communications strategies to help communities address public health concerns with PFAS.
- EPA will then travel to states with communities impacted by PFAS to engage on ways the agency can best support the work that's being done at the state, local, and tribal levels.
- Using information from the National Leadership Summit and community engagement, EPA will develop a PFAS Management Plan for release later this year.

BACKGROUND:

- In 2016, EPA issued a health advisory of 70 parts per trillion (ppt) for PFOA and PFOS in drinking water. A health advisory is non-regulatory information provided to states, tribes, public water systems, and local officials about health risks, analytical methods and treatment, so they can evaluate the actions to protect their drinking water consumers.
- EPA included PFOA and PFOS among the 109 drinking water contaminants on the fourth Contaminant Candidate List (CCL4). The CCL is a list of unregulated contaminants, that are known or anticipated to occur in public water systems and that may require regulation. The Safe Drinking Water Act (SDWA) requires the Agency to make decisions to regulate or not regulate at least five CCL4 contaminants by 2021.
- EPA's third Unregulated Contaminant Monitoring Rule (UCMR 3) required approximately 5,000 public water systems to monitor for 30 contaminants between January 2013 and December 2015.
    - Six PFASs were among the 30 contaminants included in UCMR 3.
    - 4 percent of public water systems reported measurements of at least one of the PFAS monitored.
    - 1.3 percent of public water systems reported results for which the level of PFOA and/or PFOS was greater than the health advisory of 70 ppt.

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FY 2019 CONGRESSIONAL HEARINGS
PUBLIC NOTIFICATION FOR CSOs IN THE GREAT LAKES

ISSUE: Status of the Public Notification for Combined Sewer Overflows in the Great Lakes

TALKING POINTS:

- EPA continues to work closely with the Great Lakes states to implement the requirements for public notification of combined sewer overflows to the Great Lakes.
- The final rule signed by the Administrator on December 18, 2017, reflected input from states and the proposed requirements were modeled after various existing requirements for public notification in the different states' programs. The rule provides additional specificity to ensure timely and consistent communication to the public regarding CSO discharges to the Great Lakes Basin.
- Timely notice may allow the public and affected public entities to take steps to reduce the public's potential exposure to pathogens associated with human sewage.

BACKGROUND:

- The 2016 Consolidated Appropriations Act required EPA to work with affected states to create public notice requirements for a combined sewer overflow discharge to the Great Lakes. The Act provided that the notice and publication requirements of the Appropriations Act be implemented by December 18, 2017.
- EPA held a public listening session in Chicago on September 14, 2016 and published a proposed rule requesting comments on Public Notification Requirements for Combined Sewer Overflows to the Great Lakes Basin on January 13, 2017. The comment period closed on March 14, 2017.
- The final rule was signed by the Administrator on December 18, 2017 and published in the Federal Register on January 8, 2018. The rule protects public health by ensuring timely notification to the public and to public health departments, public drinking water facilities and other potentially affected public entities, including Indian tribes.
- The final rule implemented Congressional direction from the Consolidated Appropriations Act of 2016. The requirements were also mentioned in the 2017 Omnibus Appropriation. In addition, specific members have demonstrated interest in this effort through letters of inquiry, including Senator Rob Portman (R-OH) and Senator Dick Durbin (D-IL).
- Funding for this rulemaking effort totaled approximately $225,000 between FY16 and FY18.

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FY 2019 CONGRESSIONAL HEARINGS
STATUS OF DRINKING WATER TREATMENT FACILITIES IN PUERTO RICO (PR) AND US VIRGIN ISLANDS (USVI)

ISSUE:

- Hurricanes in 2017 caused major damage to Puerto Rico and the US Virgin Islands.
- Major issues that plagued the islands include damage to water infrastructure and lack of power at drinking water treatment facilities which have compromised the safety and availability of drinking water.

BACKGROUND:

- Puerto Rico has 410 Public Water Systems (PWS). The Puerto Rico Aqueduct and Sewer Authority (PRASA) owns 114 drinking water treatment plants (WTPs) and 900 drinking water pump stations, which serve 97% of the population and manage more than 546 million of gallons per day.
- There are another 296 privately-owned drinking water systems, known as Non-PRASA, which serve 3% of the population. Of these 296 systems, 237 are community-owned and 59 are non-transient systems owned by private companies, universities, or schools.
- The USVI Water and Power Authority (WAPA) operates reverse osmosis desalination units on the islands of St. Thomas, St. Croix, and St. John for distributing drinking water to approximately 13,000 customers.
- As part of the disaster recovery process, EPA and PRDOH have established a Non-PRASA Multi-Sectoral Committee. The purpose of the Committee is to provide its resources to assist Non-PRASA public water systems achieve and maintain compliance with drinking regulations, as well as provide management and operational support as part of the recovery process.

TALKING POINTS:

- EPA is working to help restore capacity to drinking water systems, especially in Puerto Rico, that were already struggling prior to the hurricanes. EPA also supported the USVI in conducting sampling across the territory. Results have been used to identify problem areas.
- As of March 29, 2018, four of the 114 WTPs operated by PRASA are out of service due to problems with alternate power units or clogs at raw water intakes. There are 22 WTPs working on generator power and 88 are working on primary power.
- As part of the emergency response, EPA, its federal partners, and non-government organizations have assessed the 237 community-owned Non-PRASA systems and provided support in power restoration to 45 of the 237 systems. This work should be completed by April 30, 2018.
- EPA is also helping the Puerto Rico Department of Health (PRDOH - primacy agency) conduct drinking water sampling at all operating community Non-PRASA systems (once per month for three consecutive months). PRDOH is currently evaluating the results of the first month of sampling.
- EPA is also developing a strategic plan to drive recovery toward addressing long-standing, pre-existing environmental concerns that were made worse by the hurricanes.

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FY 2019 CONGRESSIONAL HEARINGS
STATUS OF WASTEWATER FACILITIES IN PUERTO RICO (PR) AND US VIRGIN ISLANDS (USVI) (updated April 16, 2018)

ISSUE: Major hurricane damage to Puerto Rico and the US Virgin Islands in 2017 damaged wastewater infrastructure.

TALKING POINTS:

- EPA is working to transition between the FEMA response and Recovery frameworks.
- We are working to help build back capacity to wastewater systems that were already experiencing difficulties prior to the hurricanes.
- EPA's regional office is developing a strategic plan to drive recovery toward addressing long-standing, pre-existing environmental concerns that were made worse by the hurricanes.

BACKGROUND:

- The Puerto Rico Aqueduct and Sewer Authority (PRASA) owns and operates 51 wastewater treatment plants (WWTP) and 714 sanitary pump stations that manage over 220 million gallons per day (MGD) of sanitary wastes in Puerto Rico.
- These facilities serve 60% of the population in Puerto Rico, as 40 % of the population is not connected to PRASA's wastewater treatment service and mainly manages their wastewater through septic tanks.
- • As of April 13, all 51 PRASA WWTP are in service. Of these, 44 are working on primary power and 6 are working on alternate power generators.
- At least 29 sanitary pump stations out of 714 are overflowing sewage due to lack of power from the malfunctioning of power generators. Ten of these 29 sanitary pump stations, are upstream of a water supply intake. PRASA is aware of this situation and is hauling sewage from these pump stations to nearby WWTPs and is testing to ensure drinking water from the downstream water supply intakes comply with federal drinking water standards.
- Due to the financial situation of PRASA, EPA is undergoing debt restructuring negotiations with the public corporation for the future use of capitalization funds for water infrastructure through the Puerto Rico Clean Water and Drinking Water State Revolving Funds. After Hurricane Maria, PRASA's Capital Improvement Projects have significantly increased. The Financial Oversight and Management Board for Puerto Rico (PROMESA Board) requested the revision of PRASA's fiscal plan to integrate the assessment of damages to water infrastructure. Preliminarily, PRASA has projected $720 million in damages, though assessment continue. PRASA submitted its revised fiscal plan including changes to baseline projections and changes in revenue and expense measures, and the PROMESA Board is reviewing.
- The U.S. Virgin Islands (USVI) operates seven WWTPs, with a combined treatment capacity of 28 MGD. They also operate 30 sanitary pump stations.
    - Three of these facilities are operated and maintained by a private contractor under a Federal Court Order.
- As of February 26, 2018, six of the seven WWTPs in the USVI are operating on primary power. The Vessup wastewater plant in Redhook, St. Thomas, was taken off line as a precautionary measure due to structural problems aggravated by hurricanes' effects. The sewage from the Vessup WWTP is being hauled by truck to a different plant.
- The hurricanes caused some structural damage to many wastewater treatment plant tanks.

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- Three out of 30 sanitary pump stations are currently off line due to electrical and/or mechanical malfunctions resulting from the hurricanes.

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FY 2019 CONGRESSIONAL HEARINGS

STEAM ELECTRIC POWER GENERATING EFFLUENT LIMITATION GUIDELINES

ISSUE/TOPIC: Status of the 2015 Steam Electric Effluent Limitation Guidelines final rule.

TALKING POINTS:

- After considering issues raised by electricity companies and the small business community, the Agency is conducting a new rulemaking to potentially revise the effluent limitations and pretreatment standards for existing sources in the 2015 rule that apply to bottom ash transport water and flue gas desulfurization (FGD) wastewater. At this time, EPA does not intend to conduct a rulemaking that would potentially revise any of the other requirements in the 2015 rule.
- The Agency also delayed compliance dates in the 2015 rule for the two waste streams that are potentially being revised to prevent power plants from unnecessarily spending resources until the new rulemaking is complete.
- EPA anticipates that it will complete this rulemaking by Fall 2020 and will require approximately 5 FTE and $4.2 million.

BACKGROUND:

- On November 3, 2015, EPA issued a final rule amending the effluent limitations guidelines and standards on various waste streams at steam electric power plants which established "best available technology" requirements for five waste streams.
- In March and April, 2017, EPA received two administrative petitions for reconsideration of the Steam Electric ELG rule, one from the Utility Water Act Group and one from the Small Business Administration Office of Advocacy.
- After considering the issues raised in the administrative petitions, in August, 2017, the Administrator announced his decision to conduct a rulemaking to potentially revise the 2015 rule.
- The Administrator also signed a final rule on September 9, 2017, postponing the earliest compliance dates for the waste streams in the 2015 Rule that are potentially being revised, from November 1, 2018, to November 1, 2020.
- Accomplishments: Since the Administrator announced his decision in August, 2017, EPA assigned two additional full-time employees[5] to this rulemaking. EPA is updating the baseline for its analysis to reflect changes in the industry, has held meetings with numerous steam electric plants and technology vendors, and has initiated data collections efforts to support the rulemaking.
- Congressional Inquiries: During the reconsideration period, the Agency received two congressional inquiries (Senator Rubio and Congressman Ross) on behalf of Lakeland Electric in Florida requesting immediate relief from the ELG due to the inability of indirect dischargers to meet the compliance deadline for implementation.

[5] These two FTE are temporary detail assignments and will need to be renewed and/or replaced in subsequent FY either through a permanent hiring action or new detail assignments.

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FY 2019 CONGRESSIONAL HEARING
U.S. MEXICO BORDER INFRASTRUCTURE PROGRAM

QUESTION: Why does EPA budget propose an elimination of the U.S./Mexico Border grant program, especially given the recent spills in Tijuana, Mexico?

ANSWER:

- This program elimination is part of the administration's overall goal to focus on funding core environmental programs with a national scope.
- In regards to Tijuana, EPA is working with stakeholders including the International Boundary and Water Commission (IBWC), Department of State, U.S. Customs and Border Patrol managers and agents, Congressional staff, the North American Development Bank (NADB), and state and local officials to identify diplomatic and financial alternatives to transboundary contamination.

BACKGROUND:

- The U.S. – Mexico Border grant program assisted border communities in the planning, design, and construction of water and wastewater treatment projects. To-date, the program has funded 122 projects. Over $1 billion has been appropriated to this program since inception (1994).
- Between January-May 2017 three major spills occurred in the Tijuana area resulting in more than 150 million of gallons of untreated sewage flowing into the U.S. These events caused beach closures, impacted local communities, and exposed U.S. Customs and Border Protection (CBP) agents to pathogens and unknown chemicals.
- Members of Congress, CBP, the States of Arizona and California and local cities have expressed their concerns regarding the increased number of transboundary spills due to failing infrastructure in Mexico.
- The State Revolving Funds are a source of infrastructure funding that can continue to fund water system improvements in U.S. communities along the border.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 EN v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
STAG	$10.0M	0.0	$9.9M	0.0	$0.0M	0.0	-$10.0M	0.0

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FY 2019 CONGRESSIONAL HEARINGS
WATER ASSISTANCE TO SMALL SYSTEMS AND TRIBES

ISSUE: Small Systems/Tribal Funding for Water Infrastructure

TALKING POINTS:

- The State Revolving Loan Funds (SRFs) are a significant source of federal funding for water infrastructure in small communities across the nation.
- The FY 2019 budget includes almost $2.3 billion for the SRFs to fund water infrastructure improvements including those in small and tribal communities.

BACKGROUND:

- The EPA's Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) provide low-interest loans to communities for water infrastructure projects. States may customize loan terms to meet the needs of small, disadvantaged communities, which typically have fewer financing options.
- Since inception of the CWSRF, the following has been provided for tribal and disadvantaged communities:
  - Tribal Set-Aside – $546 million for 1,525 wastewater infrastructure projects. Last fiscal year, in coordination with other federal partners, the program provided 10,940 tribal member homes first time access to basic sanitation services.
  - Additional Subsidy – $4.6 billion provided to over 4,100 projects to promote affordable funding for underserved and disadvantaged communities and encourage sustainable wastewater projects.
- Since inception of the DWSRF, the following has been provided for tribal and disadvantaged communities:
  - Tribal Set-Aside – $325 million in drinking water infrastructure projects from 1997-2017. In association with our federal partners, these funds helped provide more than 72 thousand tribal member homes with access to drinking water from 2009-2017.
  - Additional Subsidy – $3.1 billion provided to over 34,200 projects to promote affordable funding for underserved and disadvantaged communities and encourage sustainable water projects.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 Enacted		FY 2019 Pres Bud		Delta FY 2018 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
CWSRF	$1,393.9M	0.0	$1,693.9M	0.0	$1,393.9M	0.0	-$300.0M	0.0
DWSRF	$863.2M	0.0	$1,163.2M	0.0	$863.2M	0.0	-$300.0M	0.0
Total	$2,257.1M	**0.0**	**$2,857.1M**	**0.0**	**$2,257.1M**	**0.0**	**-$600.0**	**0.0**

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FY 2019 CONGRESSIONAL HEARING
WATER INFRASTRUCTURE FUNDING

QUESTION: What is EPA's proposed funding for water infrastructure in FY 2019?

ANSWER:

- Robust funding is provided for critical drinking and wastewater infrastructure to further the President's ongoing commitment to infrastructure repair and replacement.
- The FY 2019 President's budget request includes nearly $2.3 billion for the State Revolving Funds allowing states to finance high priority infrastructure investments that protect human health and the environment.
- In addition, $20 million is requested for the Water Infrastructure Finance and Innovation Act (WIFIA) program. The EPA could potentially provide approximately $2 billion in credit assistance, which could spur an estimated $4 billion in total infrastructure investment.[6]
- In the FY 2018 Omnibus, Congress restored the SRF funding to FY 2017 Enacted levels and appropriated an additional $600M to the SRFs combined ($300M to CWSRF and $300M to DWSRF); and appropriated $63M for the WIFIA program.

BACKGROUND:

- Established in 1987 and 1997 respectively, the CWSRF and DWSRF programs comprise 102 environmental finance banks administered by the States and Puerto Rico providing low cost financial assistance to help communities address water infrastructure needs. The CWSRF has funded over 38,000 assistance agreements. The DWSRF has funded over 14,000 assistance agreements.

- Total CWSRF funding available for loans from 1988 through June 2016 exceeds $126.1 billion. The EPA estimates that for every federal dollar contributed, close to three dollars are provided to municipalities.
- Since its inception in 1997, the DWSRF program has made $35.4 billion available to finance 14,000 infrastructure improvement projects nationwide, with an average of $1.87 made available for every $1 of federal funds invested.
- In FY 2017 Congress funded the WIFIA program at $30 million and EPA announced its first selection round for WIFIA loans. Congress provided $63 million for WIFIA in the FY 2018 Omnibus and a second selection round is expected to be announced in April 2018.

- SRF funding can be paired with WIFIA financing. The SRFs focus broadly on all community sizes, including the smallest, and the full range of creditworthiness.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 Annualized CR		FY 2019 Pres Bud		Delta FY 2017 EN v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
CWSRF	$1,393.9 M	0.0	$1,384.4 M	0.0	$1,393.9M	0.0	$0.0M	0.0
DWSRF	$863.2M	0.0	$857.4M	0.0	$863.2M	0.0	$0.0M	0.0

[6] This approximation is based on notional calculations. Subsidy cost is determined on a loan-by-loan basis.

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*FY17 CR lead infrastructure	$100.0M							
WIFIA	$30.0M	12.0	$12.9M	12.0	$20.0M	12.0	-$10.0M	0.0
Total	**$2,387.1M**	**12.0**	**$2,254.7M**	**12.0**	**$2,277.1M**	**12.0**	**-$10.0M**	**0.0**

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FY 2019 CONGRESSIONAL HEARINGS
WATER SECURITY

ISSUE: EPA has requested increased funding for water security to provide critical resources to coordinate and support protection of the nation's critical water infrastructure from terrorist threats and all-hazard events

TALKING POINTS:

- The FY 2019 request provides over $7 million in funding for emergency preparedness and training for water systems in the event of a natural disaster, particularly hurricanes and wildfires, or terrorism including cyberattacks.
- With the resources requested, EPA will train about 2,500 water utilities, state officials and federal emergency responders to become more resilient to any natural or manmade incident that could endanger water and wastewater services.

BACKGROUND:

- Under the federal homeland security system, each of the 16 critical infrastructure sectors (e.g., transportation, energy, water) has a Sector-Specific Agency (SSA) which serves as the federal lead responsible for enhancing the sector's physical and cyber security. EPA is the SSA for the water sector.

- The Homeland Security: Critical Infrastructure Protection program provides resources to support the entirety of EPA's SSA homeland security mission to protect the nation's water infrastructure from terrorism and natural disasters.

- As an SSA, EPA has historically trained over 5,000 water utilities, state officials, and federal emergency responders annually, to become more resilient to any natural incident or act of terrorism that could endanger water and wastewater services.
- EPA develops guidance and prepares water systems to adopt contamination warning and response systems capable of detecting contaminants in both the source water and distribution network.

RESOURCES:

(Dollars in Millions)

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
S&T	$10.0M	21.6	$9.2M	22.1	$6.1M	20.1	-$3.9M	-1.5
EPM	$0.9M	0.9	$1.0M	1.0	$1.3M	3.0	+$0.4M	+2.1

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Total	**$10.9M**	**22.5**	**$10.2M**	**23.1**	**$7.4M**	**23.1**	**-$3.5M**	**+0.6**

FY 2019 CONGRESSIONAL HEARING
"WATERS OF THE U. S." RULEMAKING –APPLICABILITY DATE

QUESTION: Why did EPA and Army sign a final rule that would have the effect of delaying any implementation of the 2015 Clean Water Rule for two years?

ANSWER:

- The Supreme Court recently ruled in National Association of Manufacturers v. Department of Defense that the district courts have original jurisdiction to review the 2015 Clean Water Rule (the 2015 Rule). In light of this, EPA and the Department of the Army finalized a rule that applies an applicability date to prevent confusion over which rules apply while district court litigation continues over the 2015 Rule.
- Following a review of public comments on the proposed rule and interagency review, the agencies signed the final rule on January 31, 2018.
- This action will provide clarity and regulatory certainty during the regulatory process for reconsidering the definition of "Waters of the U.S.," which the agencies expect to complete in two years. Until a new regulation is in place to revise the definition of "Waters of the U.S.," the agencies will continue to implement the longstanding regulatory definition, consistent with current agency guidance interpreting that definition in light of the *SWANCC* and *Rapanos* decisions.

BACKGROUND:

- EPA and the Army promulgated a rule in June 2015 defining "Waters of the U. S." (the 2015 Rule), which took effect in most states on August 28, 2015.
- On October 9, 2015, the U.S. Court of Appeals for the Sixth Circuit stayed the 2015 Rule nationwide pending further action of the court.
- On January 22, 2018, the Supreme Court determined that the U.S. Courts of Appeals do not have original jurisdiction to review challenges to the 2015 Rule and, therefore, do not have original jurisdiction to issue a nationwide stay of the 2015 Rule. The Sixth Circuit's nationwide stay of the 2015 Rule has since been lifted and litigation has resumed in at least the district court in North Dakota.
- There are three lawsuits against the agencies on this applicability rule: two in the Southern District of NY and one in District of South Carolina. In addition, there is a notice of intent to sue for an ESA challenge that would be brought in the Northern District of California. The Government has moved to transfer the three existing cases to the Southern District of Texas, where one of the 2015 rule challenges is pending. That motion has been briefed but not decided.
- EPA and Department of the Army are pursuing a two-step approach to implementing the President's February 2017 Executive Order:
  - Step 1: Proposed rule to rescind the 2015 rule and re-codify the prior regulations.
  - Step 2: Rulemaking to revise the definition of "Waters of the U.S." consistent with the February 28, 2017, E.O.

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FY 2019 CONGRESSIONAL HEARING
"WATERS OF THE U.S." 2015 RULE SUPREME COURT RULING

QUESTION: How is EPA responding to the recent Supreme Court decision on the 2015 "Waters of the U.S." Rule?

ANSWER:

- EPA and the Department of the Army finalized a rule on January 31, 2018, to add an applicability date to the 2015 "Waters of the U.S." Rule that is February 6, 2020.
- Given the uncertainty about litigation in multiple district courts over the 2015 "Waters of the U.S." Rule following the Supreme Court's recent decision, the rule that was finalized on January 31, 2018, provides regulatory certainty and clarity to the regulated community, states, tribes, and the public while the agencies continue to consider possible revisions to the 2015 "Waters of the U.S." Rule.
- The final rule is intended to ensure that the regulations that existed prior to promulgation of the rule in 2015 and that were in effect nationwide since October 9, 2015, would continue to be implemented by the agencies during these ongoing rulemaking actions and while litigation is ongoing in district courts.

BACKGROUND:

- EPA and the Army promulgated a rule in June 2015 defining "Waters of the U.S.," which took effect in most states on August 28, 2015.
- On October 9, 2015, the U.S. Court of Appeals for the Sixth Circuit stayed the 2015 rule nationwide pending further action of the court.
- On January 22, 2018, the Supreme Court determined that the U.S. Courts of Appeals do not have original jurisdiction to review challenges to the 2015 Rule and, therefore, do not have original jurisdiction to issue a nationwide stay of the 2015 Rule.
- Until a new rule is in place to revise the definition of "waters of the U.S.," the agencies are relying on the 1986 regulatory definition of "Waters of the U.S." as interpreted by the SWANCC and Rapanos Supreme Court decisions when implementing CWA programs.
- EPA and Department of the Army are pursuing a two-step approach to implementing the President's February 2017 Executive Order:

  Step 1: Proposed rule to rescind the 2015 rule and re-codify the prior regulations.

  Step 2: Rulemaking to revise the definition of "Waters of the U.S." consistent with the February 28, 2017, E.O.

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FY 2019 CONGRESSIONAL HEARINGS
WATERSENSE ELIMINATION

ISSUE: Proposed elimination of the WaterSense program

TALKING POINTS:

- The WaterSense program is eliminated in the FY 2019 President's budget as part of the overall effort to better target and prioritize the EPA's activities.
- The EPA will focus its activities on core environmental statutory requirements.
- In the Explanatory statement accompanying the FY 2018 Omnibus Appropriations Bill Congress directs the EPA to maintain funding for WaterSense at the FY 2017 enacted level.

BACKGROUND:

- WaterSense is a voluntary partnership program sponsored by the EPA that labels water-efficient products and is a resource for water conservation.
- The WaterSense program was launched in 2006. Through the end of 2016, WaterSense has helped Americans save a cumulative 2.1 trillion gallons of water and more than $46.3 billion in water and energy bills.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 Enacted		FY 2019 Pres Bud		Delta FY 2017 Enacted v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$3.1M	8.0	$3.1M	8.0	$0.0	0.0	-$3.1M	-8.0
Total	**$3.1M**	**8.0**	**$3.1M**	**8.0**	**$0.0**	**0.0**	**-$3.1M**	**-8.0**

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FY 2019 CONGRESSIONAL HEARINGS
WESTERN LAKE ERIE BASIN OHIO AND MICHIGAN CWA 303D IMPAIRED WATERS

ISSUE: EPA withdrew its approval of Ohio's decision to leave the open waters of the Western Lake Erie off the impaired waters list.

TALKING POINTS:

- EPA determined the State's submission did not demonstrate that the State satisfied the statutory and regulatory obligations under Section 303(d) of the Clean Water Act.
- Specifically, Ohio did not assemble and evaluate all existing and readily available data and information regarding nutrients in its open waters of Lake Erie.
- Because there is an active lawsuit on this matter, I'm unable to share anything more.

BACKGROUND:

- The Western Basin of Lake Erie experiences persistent harmful algal blooms (HABs) and drew national press attention in Aug. 2014 when Toledo was subject to a Do Not Drink order (for 3 days) because of a microcystin outbreak (an algal toxin). Annex 4 of the Great Lakes Water Quality Agreement sets aggressive phosphorus reduction targets to address the problem of HABs in Lake Erie.
- Section 303(d) of the CWA and its implementing regulations require states to assemble and evaluate all existing and readily available water quality related data and information and submit for EPA approval or disapproval lists of their waters that do not meet their applicable water quality standards (WQS). WQS include both narrative and numeric criteria.
- On February 2, 2017, EPA approved Michigan's 2016 section 303(d) list, which identified the State's entire portion of western Lake Erie as impaired for aquatic life use due to HABs.
- On May 19, 2017, EPA approved Ohio's 2016 section 303(d) list, which identified Lake Erie's shoreline waters and waters near drinking water intakes as impaired for public drinking water supply use due to microcystin. Ohio did not assess the open waters. EPA's approval stated that it is "deferring to the State's judgment not to assess [the open water of Lake Erie] for the 2016 list." On January 12, 2018, EPA sent Ohio EPA a letter withdrawing its approval of Ohio's list and requested that Ohio assemble and evaluate all existing and readily available data and information regarding nutrients for its open waters of Lake Erie and submit the results of that evaluation, including Ohio's assessment, as appropriate, by April 9, 2018. Ohio's released on March 22, 2018, its proposed 2018 303(d) list which includes the open waters of Lake Erie's Western Basin (from the Michigan/Ohio state line to the Marblehead Lighthouse) as impaired for recreation due to harmful algae and drinking water due to occurrences of microcystin. Previously, only the shoreline area of the Western Basin and drinking water intakes had been designated as impaired. Public comments on the proposed 2018 303(d) list are due by May 4th, 2018.
- On July 18, 2017, the Environmental Law & Policy Center (ELPC) filed suit in federal court in the Northern District of Ohio. ELPC alleges that EPA's approval of Ohio's 2016 303(d) list was arbitrary and capricious. EPA is currently engaged in that litigation.
- EPA has received requests from Congressional representatives (Dingell, MI, and Kaptur, OH), local government officials, and the public to add the open waters of western Lake Erie to Ohio's 2016 section 303(d) list because of persistent HAB events.

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FY 2019 CONGRESSIONAL HEARINGS
WH INFRASTRUCTURE LEGISLATIVE PROPOSAL EPA PERMITS

QUESTION: What proposals are in the Administration's Legislative Outline for Rebuilding Infrastructure in America that could potentially affect EPA's permitting process?

ANSWER:

- Establish a "One Agency, One decision" Environmental Review structure and reduce inefficiencies in environmental reviews.
- Authorize federal agencies to accept funding from non-federal entities to support environmental and permitting reviews.
- Eliminate redundancy in EPA reviews of Environmental Impact Statements under Section 309 of the Clean Air Act.

BACKGROUND:

- On February 12, 2018 the White House released the Legislative Outline for Rebuilding Infrastructure in America, which included aspects addressing infrastructure permitting improvement.
- While the Legislative Outline included many proposals to address the federal environmental permitting process, mainly NEPA, there were a few proposals that could potentially affect EPA permitting programs.
- Protecting Clean Water with greater efficiency:
    - Eliminate redundancy, duplication, and inconsistency in the Application of Clean Water Provisions.
        - Authorize federal agencies to select and use nationwide permits without additional USACE review.
        - Consolidate authority to make jurisdictional determinations for 404 permits.
        - Eliminate duplicative oversight by removing EPA's authority to veto a 404 permit under Section 404(c).
        - Allow use of one NEPA document for both Section 404 and Section 408 actions.
    - Stabilize utility investments by lengthening the term of a National Pollutant Discharge Elimination System (NPDES) permit and providing for automatic renewals.
- Reducing inefficiencies in protecting Clean Air:
    - Eliminate confusion by clarifying that Metropolitan Planning Organizations need only conform to the most recent National Ambient Air Quality Standard.
    - Reduce uncertainty by establishing motor vehicle emissions budgets before requiring initial transportation conformity determinations for newly designated areas.

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FY 2019 CONGRESSIONAL HEARINGS
WH INFRASTUCTURE LEGISLATIVE PROPOSAL WATER INFRASTRUCTURE PROGRAMS (WIFIA AND CWSRF)

QUESTION: What proposals are in the Administration's Legislative Outline for Rebuilding Infrastructure in America that could potentially affect EPA's water infrastructure programs?

ANSWER:

- The Legislative Outline included many proposals to address infrastructure financing, including proposals to expand WIFIA and broaden program eligibility.
- These proposed provisions would provide tools and mechanisms for market participants to invest in public infrastructure.
- Proposals within the Legislative Outline give state and local governments increased opportunity to finance large-scale infrastructure projects under terms that are more advantageous than in the financial markets.

BACKGROUND:

- On February 12, 2018 the White House released the Legislative Outline for Rebuilding Infrastructure in America, which included proposals to improve EPA's water infrastructure programs, mainly WIFIA and CWSRF.
- Specific WIFIA reforms proposed in the Legislative Outline:
  - Additional budget authority and remove current lending limit.
  - Extend set-aside funds from appropriated subsidy, notwithstanding Section 5033 of WIFIA, 2014, and would remain available until end of FY 2028.
  - Expand EPA's WIFIA authorization to include non-Federal flood mitigation, navigation and water supply.
  - Provide authority for WIFIA to fund development of a water source, water production and/or transport of water for sale to a community water system (water wholesalers).
  - Authorize Brownfield rehabilitation and cleanup of Superfund sites under WIFIA.
  - Reduce rating agency opinions from two to one for all borrowers.
  - Provide EPA authority to waive the springing lien (borrower to pledge assets) to secure loan in certain lending situations (i.e. if credit rating falls below certain rating).
  - Increase the base level of administrative funding authorized to ensure EPA has sufficient funding to operate the WIFIA program.
  - Expand the WIFIA program to authorize eligibility for credit assistance for water system acquisitions and restructurings.
  - Expand WIFIA authorization to include Federal deauthorized water resource projects.
- CWSRF proposal would expand authorization to privately owned public-purpose treatment works.
- Proposal to provide EPA Infrastructure Programs with "SEP-15" Authorizing Language.
  - This authority (similar to 23 U.S.C. 502) encourages tests and experimentation in the water projects development process.
- Proposal to broaden eligibility to facilitate use of Private Activity Bonds (PABs).

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WATER INFRASTRUCTURE FINANCE AND INNOVATION ACT PROGRAM (WIFIA) (updated April 23, 2018)

ISSUE: Status of WIFIA program

TALKING POINTS:

- EPA is moving forward quickly to spark new investments to repair our nation's crumbling water infrastructure through the WIFIA program.
- The WIFIA program anticipates completing its first loan in the next two months. The EPA estimates that upwards of 8 loans will be closed in 2018.
- Congress provided $63 million for WIFIA in the FY18 Omnibus and EPA has moved quickly to solicit prospective WIFIA borrowers under this additional budget authority.
- On April 4, EPA announced the availability of funding that could provide as much as $5.5 billion in loans, helping to leverage up to $11 billion in water infrastructure projects and create up to 170,000 jobs. EPA is prioritizing projects that protect public health, including reducing exposure to lead and other contaminants and updating our nation's aging infrastructure.
-

BACKGROUND:

- In January 2017, EPA officially launched the WIFIA program by issuing a Notice of Funding Availability seeking projects interested in applying for WIFIA loans.
- In April 2017, EPA received 43 letters of interest in response to this request, more than quadruple the capacity of the loan program, based on the $25 million in appropriated budget authority for WIFIA in FY17.
- In July 2017, EPA announced the 12 projects selected to continue with the application process, which seek $2.3 billion in credit assistance to help finance more than $5 billion in water infrastructure investment.
- As of April 2018, 1 of the 12 selected projects have closed, 8 have submitted applications, 2 projects continue to work with WIFIA staff to complete the process, and 1 has withdrawn from the process.
- WIFIA loans can be provided for a broad array of water infrastructure projects and can be accessed by state, local and tribal governments as well as private entities including public-private partnerships. WIFIA loans can be paired with SRF loans.
- Congress appropriates funding for WIFIA in the form of credit subsidy to cover expected losses. Because expected losses in the water infrastructure industry are low, the WIFIA program is able to set-aside a small amount of Federal dollars as the loan loss reserve for a much larger loan.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 Enacted		FY 2019 Pres Bud		Delta FY 2017 EN v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE

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WIFIA	$30.0M	12.0	$63.0M	12.0	$20.0M	12.0	-$10.0M	0.0

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FY 2019 CONGRESSIONAL HEARINGS
ALASKA SEAFOOD PROCESSING NPDES UPDATE

ISSUE:

- There are currently three expired Alaska NPDES seafood processing permits in the process of being reissued by EPA and the State of Alaska's Department of Environmental Conservation (ADEC):
  - EPA's reissuance of the NPDES General Permit for Offshore Seafood Processors for Vessels Discharging to Federal Waters in Alaska.
  - ADEC's reissuance of the Alaska Offshore Seafood Processors NPDES General Permit for Vessels Discharging in State Waters.
  - ADEC's reissuance of the Onshore Seafood Processors NPDES General Permit for Facilities Discharging to State Waters.

TALKING POINTS:

- EPA and ADEC as permit authorities in federal and state waters, respectively, in Alaska, will include permit conditions consistent with the fish grinding language of the FY18 Omnibus Appropriations Bill when reissuing the permits. The permits are scheduled for reissuance in calendar 2018.

BACKGROUND:

- The primary method of treatment for offshore processors and for most onshore processors is the grinding of the seafood waste to 0.5 inches in all dimensions prior to discharge. The grinding is intended to enhance dispersion of the seafood waste.
- Representatives of the seafood processing sector have stated that compliance with the requirement on a consistent basis is not possible since the best technology available is unable to meet the dimensions specified in the permit at all times.
- Language regarding this issue was included in report language attached to the recent FY2018 Consolidated Appropriations Act. This language instructed the agency 'to develop a policy to ensure that fish processors using the best available technology and/or best conventional practice will be considered in compliance.' It also instructs the agency to exempt offshore processing vessels from the 0.5-inch grinding requirement.

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FY 2019 CONGRESSIONAL HEARINGS
AMERICAN IRON AND STEEL (AIS): STATE REVOLVING FUNDS (SRF)

ISSUE: Status of the American Iron and Steel program for the State Revolving Loan Funds

TALKING POINTS:

- The EPA developed guidance in March 2014 to implement the SRF AIS programs. The EPA's current procedures for implementing AIS are consistent with EO 13788 - "Buy American and Hire American."

BACKGROUND:

- Existing statutory and appropriations provisions require Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) assistance recipients to use iron and steel products that are produced in the United States.
- This American Iron and Steel (AIS) requirement was codified by statute for the CWSRF program in 2014. It has continued each year through appropriations language for the DWSRF. The WIFIA program is also subject to AIS requirements.
- These laws list specific iron and steel products to be covered by the AIS requirements and included a provision for waiver of the requirements in which the Administrator finds (1) that applying the requirement would be inconsistent with the public interest, (2) where the products are not available in sufficient and reasonable quantities and of satisfactory quality, or (3) where inclusion will increase the cost of the overall project by more than 25 percent. Waiver requests must be published electronically for 15 days of public comment before an Administrator decision.
    - In the past year, EPA has issued 12 project specific waivers. Since the beginning of the AIS requirements, 63 project specific waivers have been approved.
    - There are currently 6 project specific waiver requests pending, as well as one national short-term waiver for stainless steel nuts and bolts in pipe restraint and restraint-type products.
- Executive Order 13788, signed April 18, 2017, seeks to maximize the use of goods, products, and materials produced in the United States in order to support American manufacturing and stimulate economic growth.
- The EPA's current processes for implementing its AIS authorities are consistent with EO 13788.
- EPA currently requires the "melted and poured" standard for steel production for AIS.
    - EPA has implemented a rigorous waiver process for SRF assistance recipients.
        - Each waiver request received is thoroughly analyzed with independent market supply research and scrutiny of product due diligence. Every effort is made for identification and use of available domestic products.
    - EPA has conducted site visits to over 270 projects in 46 States since 2014, educating, overseeing, and assisting communities with AIS implementation.
- The EPA has provided well-attended trainings on the AIS requirements, including refresher trainings targeting manufacturers and assistance recipients.

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FY 2019 CONGRESSIONAL HEARINGS
GEN-X IN CAPE FEAR RIVER

ISSUE: GenX and emerging contaminants in the Cape Fear watershed in North Carolina

TALKING POINTS:

- EPA has initiated an investigation into Chemours' compliance with the Toxic Substances Control Act (TSCA) including a 2009 order issued under the TSCA for the production of GenX to determine if the company is in compliance. EPA continues to coordinate with the State of North Carolina to ensure that Chemours appropriately addresses the issues raised in the Notices of Violation the State issued on November 13, 2017, and February 12, 2018.
- At the request of the North Carolina Department of Environmental Quality, EPA is also performing independent laboratory analysis for GenX and several other compounds in water samples being collected by NCDEQ along the Cape Fear River, including: wastewater, surface water, ground water, and treated drinking water samples. Additionally, EPA is analyzing air emission samples collected from stack testing submitted by Chemours as well as precipitation samples collected by NCDEQ.
- EPA is committed to supporting states and tribes to address Per- and polyfluoroalkyl substances (PFAS), including GenX, and is currently developing human health toxicity values for GenX which will provide a scientific basis for states and communities to set or refine public health goals. EPA has received data from Chemours and is using it to update its risk assessment for GenX.

BACKGROUND:

- EPA has communicated consistently with local and state officials about the Agency's activities to address GenX from the Chemours facility specifically, and PFAS more broadly.
- EPA has recently formed an Agency-wide committee to address PFAS.
- EPA has established non-regulatory drinking water health advisories for PFOA and PFOS based on the agency's assessment of the latest peer-reviewed science. These advisories provide drinking water system operators, and state, tribal and local officials who have the primary responsibility for overseeing these systems, with information on the health risks of these chemicals, so they can take the appropriate actions to protect people.
- EPA has collected data on six PFAS substances in public drinking water systems and is evaluating this information to determine the next steps to protect public health.
- EPA will host a National Leadership Summit in May where participants will discuss efforts to characterize risks, develop monitoring and treatment techniques, identify near-term actions to address challenges facing states and communities, and develop risk communications strategies to help communities address public health concerns with PFAS.
- Using information from the National Leadership Summit and community engagement, EPA will develop a PFAS Management Plan for release later this year.
- In its review of the GenX Pre-Manufacture Notice (PMN) submitted by DuPont (now Chemours), EPA determined that the chemical could be commercialized if the conditions of the consent order were met. Other replacements for older PFAS chemicals submitted as PMNs also went through review.

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FY 2019 CONGRESSIONAL HEARINGS
OREGON PESTICIDE GENERAL PERMIT

ISSUE: Constituents of Oregon Congressman Greg Walden have raised concerns with him regarding the scope of the Oregon Department of Environmental Quality's (DEQ) Pesticide General Permit (PGP) to include areas beyond "jurisdictional waters." They are concerned about the impacts of this expanded scope on Oregon farmers and foresters.

TALKING POINTS:

- States may issue individual or general permits for pesticide discharges. EPA has worked closely with states in developing their PGPs. For the most part, states modeled their permits on EPA's PGP, however, some states have incorporated different or additional requirements that they feel are necessary to adequately protect their state's water quality.
- A National Pollution Discharge Elimination System (NPDES)-authorized state (such as Oregon) may issue a general permit with a broader scope, or with more stringent requirements under state law, than required in the corresponding EPA-issued general permit.

BACKGROUND:

- A NPDES permit is required for the discharge of pollutants from a point source to waters of the United States, including discharges of biological and chemical pesticides that leave a residue.
- The applicability of NPDES to pesticide applications stems from a 2009 decision by the Sixth Circuit Court of Appeals which vacated EPA's 2006 rule exempting pesticide discharges from NPDES coverage.
- Several bills introduced in the U.S. Senate and the House would amend the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Clean Water Act to exempt FIFRA-authorized applications from NPDES permitting. The most recent bill (H.R. 953) was passed in May 2017 by the House.
- EPA's 2016 NPDES Pesticide General Permit requires permittees to minimize pesticide discharges through the use of integrated pest management measures and to meet record-keeping and reporting requirements.
- Oregon has NPDES permitting authorization and issued its own Pesticide General Permit in 2011. This permit expired in 2016, but it has been administratively extended until Oregon reissues the permit later this year. Until Oregon's PGP is reissued, current permittees remain covered under the 2011 permit.
- Oregon expects significant stakeholder interest during the public process for reissuing its permit.

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FY 2019 CONGRESSIONAL HEARING
E-ENTERPRISE

QUESTION: How does E-Enterprise support cooperative federalism among State, Tribal, territory, and EPA co-regulators?

ANSWER: EPA's E-Enterprise partnership with states and tribes transforms the way EPA does the business of environmental protection to deliver more efficient environmental programs through:

- Shared governance among EPA, states and tribes;
- program modernization and streamlining, and
- use of innovative technology.

BACKGROUND:

- Through process streamlining and the use of innovative solutions, E-Enterprise has reduced burden for the regulated community and developed shared services, including a Portal ([HYPERLINK "https://e-enterprise.gov"]) that serves as a single access point for the regulated community and public and a collaboration platform for co-regulators.

- Recent Accomplishments include:
  - The Assistance Gateway addresses a need expressed by local governments and tribes to gain easy access to decision-making tools and resources to improve environmental infrastructure, compliance, critical assets, health, and sustainability.
  - Using pesticides data and accessibility and label matching technologies and devices, compliance assurance approaches are streamlined saving costs, time, and paper and assuring pesticides are being used for approved purposes.
  - State Plan Electronic Collection System (SPeCS) for State Implementation Plan Submissions (SIPS) enables state agencies to submit SIPs electronically to EPA for attaining the national ambient air quality standards and related information.

RESOURCES:(Dollars in Millions)

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$8.3M	25.0	$8.3M	25.0	$8.1M	22.3	-$0.2M	-2.7
S&T	$0.4M	0.1	$0.4M	0.1	0.0	0.0	-$0.4M	-0.1
SF	$0.03M	0.2	$0.03M	0.2	0.0	0.0	-$0.03M	-0.2
M3	$3.2M	7.9	$3.2M	7.9	0.0	10.0	-$3.2M	2.1
Total	**$11.9M**	**33.2**	**$11.9M**	**33.2**	**$8.1M**	**32.3**	**-$3.8M**	**-0.9**

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GOLD KING MINE RELATED LITIGATION

TOPIC: Status of litigation resulting from the August 5, 2015, Gold King Mine (GKM) release.

TALKING POINTS:

- EPA is working with the Department of Justice to respond to the four different lawsuits filed against the Agency following the release.

- EPA continues to evaluate approximately 380 tort claims, including 79 that were denied in January 2017.

BACKGROUND:

- As a result of the GKM release, the states of New Mexico, Utah, the Navajo Nation and fourteen individuals (referred to as the "McDaniel Plaintiffs") have sued EPA and the United States in two federal district courts (New Mexico and Utah).

- These cases include claims pursuant to the Comprehensive Environmental Response Compensation and Liability Act, the Clean Water Act, the Resource Conservation and Recovery Act and the Federal Tort Claims Act (FTCA).

- On March 9, 2018, in the consolidated cases of New Mexico and the Navajo Nation pending in the District of New Mexico, the Court issued an order denying without prejudice all pending motions. All parties will have an opportunity to refile motions.

- Environmental Restoration (EPA contractor and co-defendant) filed a motion to the Judicial Panel on Multidistrict Litigation (MDL) requesting consolidation of the four lawsuits in the District of New Mexico. The Judicial Panel on MDL held oral argument on March 29, 2018. All four cases are stayed pending MDL motion resolution.

- Over $2 billion in tort claims are currently in litigation, with approximately $93 million currently at the administrative level before the Agency.

- To date, EPA has not settled with any party.

- On July 5, 2017, EPA Administrator Pruitt announced his decision to reconsider tort claims for Gold King Mine damages previously denied by the past Administration. Approximately 380 claims, including 79 that were denied in January 2017, are now under evaluation by EPA. Pursuant to the FTCA, any claims that are now in litigation are not under reconsideration.

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- GKM is part of the Bonita Peak Mining District (BPMD), which EPA added to the Superfund National Priorities List (NPL) in September 2016. Sunnyside Gold Company filed a petition for review of the placement of BPMD on the NPL which was denied by the U.S. Court of Appeals for the D.C. Circuit.

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FY 2019 CONGRESSIONAL HEARING
LEGAL SUPPORT FOR EPA OPERATIONS AND FOIA

QUESTION: How does EPA provide Legal Support for EPA Operations and FOIA?

ANSWER:

- The Office of General Counsel (OGC) provides legal counsel and support on a variety of operational issues including, but not limited to: appropriations, claims, contracts, employment law, grants, information law, intellectual property law, real property, and all aspects of civil rights law.
- OGC also provides legal counsel and support for EPA's FOIA responsibilities. OGC will continue to prioritize the timely and complete processing of FOIAs to ensure compliance with all applicable laws and regulations.
- OGC also will continue to focus on providing timely responses to FOIA administrative appeals.
- The FY 2019 President's Budget requests $16.5M and 90.4 FTE for Legal Support of EPA operations and FOIA.
- The FY 2018 Omnibus continues financial support for this program at a comparable level to FY 2017 Enacted.

BACKGROUND:

- In FY 2019, the Agency will work to centrally manage the FOIA requests to achieve efficiencies in processing. The national FOIA office will be combined with the FOIA Expert Assistance Team in OGC.
- In FY 2017, EPA received 11,518 requests – the most received by EPA in a decade.
- The Agency estimates as many as 11,491 FOIA requests may be filed in FY18.
- • Discovery Services is a critical, centralized service that the Office of Environmental Information provides to all EPA offices for searching, collecting and processing electronic information that may be responsive to FOIA requests, litigation needs, and Congressional inquiries.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 Annualized CR		FY 2019 Pres Bud		Delta FY 2017 Enacted v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$15.2M	92.8	$15.2M	92.8	$16.5M	90.4	$1.3M	-2.4

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FY 2019 PRESS CONFERENCE & HEARINGS
HOMELAND SECURITY FUNDING

QUESTION: What is EPA's Homeland Security Budget for FY 2019 and what will EPA be doing?

ANSWER:

- EPA's FY 2019 budget request supports Homeland Security with $67.2M and 154.6 FTE, a decrease of $15.4M and 19.8 FTE from FY 2017 Enacted Budget levels.
- The Agency will continue to conduct work to fulfill its responsibilities in the water sector; protect EPA personnel and facilities, and engage in inter- and intra-agency communication and coordination.
- The Agency also will maintain preparedness, response, and recovery efforts, and perform activities that help protect the Nation's infrastructure from threats and intentional acts as required under the various Presidential Directives.

BACKGROUND:

- EPA's Homeland Security Program encompasses a variety of activities to enhance the Agency's preparedness capability to respond to future incidents:
  - Maintaining an ability to develop strategies and methods for characterizing, decontaminating, and managing waste from a release of chemical, biological, or radiological incidents;
  - Ensuring that the EPA's physical structures and assets are secure and operational and that essential physical security mechanisms are in place; and
  - Performing a variety of security research to identify and evaluate decontamination technologies for wide-area contamination incidents.

- Under the federal homeland security system, each of the 16 critical infrastructure sectors (e.g., transportation, energy, water) has a Sector-Specific Agency (SSA) which serves as the federal lead responsible for enhancing the sector's physical and cyber security. The EPA is the SSA for the water sector, where:
  - EPA provides resources to support the entirety of EPA's SSA homeland security mission to protect the nation's water infrastructure from terrorism and natural disasters.
  - EPA trains water utilities, state officials, and federal emergency responders to become more resilient to any natural incident or act of terrorism that could endanger water and wastewater services.
  - EPA develops guidance and prepares water systems to adopt contamination warning and response systems capable of detecting contaminants in both the source water and distribution network.

RESOURCES
(Dollars in Millions):

Approp.	FY 2017 Enacted		FY 2018 ACR		FY 2019 Pres Bud		Delta FY 2017 ENA v. FY 2019 Pres Bud	
	$	FTE	$	FTE	$	FTE	$	FTE
EPM	$10.2M	24.9	$10.1M	24.9	$9.8M	26.5	-$0.4M	1.6
S&T	$33.1M	82.9	$32.9M	82.9	$28.2M	75.6	-$4.9M	-7.3

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B&F	$6.7M	0.0	$6.6M	0.0	$6.2M	0.0	-$0.5M	0.0
SF	$32.6M	66.6	$32.4M	66.6	$23.0M	52.5	-$9.6M	-14.1
TOTAL	**$82.6M**	**174.4**	**$82.0M**	**174.4**	**$67.2M**	**154.6**	**-$15.4M**	**-19.8**

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