

Congress of the United States

House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

2321 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6301

(202) 225-6375

www.science.house.gov

February 6, 2019

The Honorable Andrew Wheeler
Acting Administrator
U.S. Environmental Protection Agency (EPA)
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Acting Administrator Wheeler,

The Committee on Science, Space, and Technology is conducting oversight of the operations of the Environmental Protection Agency (EPA) during the government shutdown that began on December 22, 2018 and concluded on January 25, 2019. The EPA determined that it had sufficient carryover funds to operate through December 28, 2018. According to the Agency's contingency plan published on December 31, 2018, only 812 of 13,972 EPA employees were retained through the lapse in funding.¹ This certainly left many key roles at the EPA unfilled during the shutdown. The Committee is concerned that the halt in funding of the Agency's vital functions will have lasting repercussions on the health and safety of Americans across our nation. It is clear from multiple media reports that the government shutdown has already had a significant impact on federal science agencies, their contractors, grant recipients and others who depend on federal funds to engage in research, development and related activities. Last year the federal budget for these activities was more than \$175 billion.²

Throughout the federal shutdown, PhD students were not able to communicate with their advisers, hampering their education; postdoctoral students on fellowships were not paid; non-government scientists were unable to obtain federal permits to complete various environmental and other studies; and access to federal data, scientific collections and other resources ceased.³ Federal scientists were forced to cancel long-planned research trips and attendance at scientific meetings, academic scientists were unable to communicate with their federal collaborators on

¹ "Contingency Plan for Shutdown," U.S. Environmental Protection Agency, December 31, 2018, accessed here: <https://www.epa.gov/enforcement/enforcement-annual-results-numbers-glance-fiscal-year-2017>

² FY 2018 R&D Appropriations Dashboard, American Association for the Advancement of Science (AAAS), accessed here: <https://www.aaas.org/programs/r-d-budget-and-policy/fy-2018-rd-appropriations-dashboard>

³ Lauren Morello, "US science agencies hit by government shutdown," *Nature*, December 22, 2018, accessed here: <https://www.nature.com/articles/d41586-018-07836-6>

projects or scientific papers, and research projects simply stopped as funding channels for federal grants and other scientific research efforts were halted.⁴

At the Environmental Protection Agency, these sorts of scientific endeavors play a critical role in helping to identify and understand the public health impacts from environmental pollutants and to protect the public from environmental harm. One impact of the shutdown that we already know is the cancellation of hundreds of pollution inspections at industrial sites.⁵ Inspection personnel, including scientists, engineers and analysts, are based at EPA regional offices across the country and are responsible for overseeing factories, power plants, refineries and more for potential violations of emissions laws. According to media reports, “most” of the “roughly 600” pollution inspectors at EPA were furloughed.⁶

Pollution inspectors conducted 11,750 inspections in 2017.⁷ Assuming these numbers have remained consistent, the shutdown likely resulted in the cancellation of around 1,000 inspections. It is imperative that the EPA, in its mission to protect human health and the environment, not fall behind in the number of inspections and evaluations it normally conducts. Cynthia Giles, a former EPA Assistant Administrator for Enforcement and Compliance Assurance, told the *New York Times* that without EPA inspectors on the ground conducting tests, including unannounced inspections, it is possible industry took advantage of this opportunity to pollute more while they knew EPA was not monitoring compliance. This situation may also make it more difficult to identify any accidental or unwitting releases of hazardous chemicals that may have occurred, which can endanger the safety and health of local communities across the country.

The government shutdown’s impact at the EPA goes beyond having an immediate impact on the health and safety of individuals across the nation in environmentally challenged towns and cities. The shutdown will hamper long-term scientific research dependent upon the federal scientific grant process that helps to empower American innovation, energize our economy and protect our environment. Many of these activities were halted, which will undoubtedly delay scientific research, fieldwork and the examination issues critical to the health, safety and security of all Americans across the nation and our competitive advantage around the world.⁸

⁴ See: Gisele Grayson, Joe Palca and Geoff Brumfiel, “With Key Government Agencies Shut Down, Science Sputters,” *National Public Radio (NPR)*, January 10, 2019, accessed here: <https://www.npr.org/2019/01/10/683716451/with-key-government-agencies-shut-down-science-sputters> and Carolyn Wilke, “Government Shutdown Hits Funding, Resources, and Morale in Science,” *The Scientist*, January 11, 2019, accessed here: <https://www.the-scientist.com/news-opinion/government-shutdown-hits-funding--resources--and-morale-in-science--65314>

⁵ Sean Reilly, “Shutdown effects trickle down to states, grantees,” *E&E News*, January 10, 2019, accessed here: <https://www.eenews.net/stories/1060111599>

⁶ Coral Davenport, “Shutdown Means E.P.A. Pollution Inspectors Aren’t on the Job,” *New York Times*, January 9, 2019, accessed here: <https://www.nytimes.com/2019/01/09/climate/epa-pollution-inspection-shutdown.html>

⁷ <https://www.epa.gov/enforcement/enforcement-annual-results-numbers-glance-fiscal-year-2017>

⁸ Lauren Morello, “US science agencies hit by government shutdown,” *Nature*, December 22, 2018, accessed here: <https://www.nature.com/articles/d41586-018-07836-6>

In addition, the shutdown had a negative and consequential impact on the livelihoods and health of federal workers and their families.⁹ It is unclear how individual agencies determined which staff were deemed “essential” and which staff were not.¹⁰ Tens of thousands of workers who were not deemed “essential” at the beginning of the shutdown were later called back to work without pay.¹¹ Furthermore, some federal contractors may not receive back pay, and others paid their workers out of their own pockets without any assurance they will be paid back by the federal government.¹²

The Science Committee has a responsibility to ensure that the EPA is fulfilling its mission to protect human health and the environment by relying on scientific evidence to protect the public. It is imperative that the Agency account for all impacts the shutdown has had on its ability to carry out this mission and work through any backlog as efficiently and effectively as possible.

In order to assist the Committee in its oversight, please respond to the following questions and provide us with the following documents and information:

- Please indicate the total number of federal employees in your agency and how many were furloughed as a result of the government shutdown.
 - How many contractors are employed by your agency, and how many were furloughed as a result of the government shutdown?
 - Please provide all agency records, including memoranda, guidance documents, legal opinions, summaries or other documents provided to federal contractors about continuing their work for the agency during the shutdown, including all records provided to federal contractors regarding agency guidance on using their own funds during the government shutdown.
- How many of your agency’s employees were deemed “essential?”
 - Indicate how many of your staff, if any, not deemed “essential” were brought back to work without pay during the government shutdown.

⁹ Michael Burke, “Federal worker with diabetes says she can’t afford to pay for insulin during shutdown,” *The Hill*, January 13, 2019, accessed here: <https://thehill.com/blogs/blog-briefing-room/news/425113-federal-worker-with-diabetes-says-she-cant-afford-to-pay-for>

¹⁰ Kimberly Adams, “Definition of an essential worker does a shutdown shift,” *Marketplace*, American Public Media, January 17, 2019, accessed here: <https://www.marketplace.org/2019/01/17/economy/definition-essential-worker-does-shutdown-shift>

¹¹ Erica Werner, “Trump administration calling nearly 50,000 back to work, unpaid, as shutdown drags on,” *The Washington Post*, January 15, 2019, accessed here: https://www.washingtonpost.com/business/economy/rank-and-file-democrats-reject-trumps-invitation-to-shutdown-talks-backing-leaders-in-united-opposition-to-border-wall/2019/01/15/2539482e-18d2-11e9-9ebf-c5fed1b7a081_story.html?utm_term=.59db4d3835ca

¹² See: Jennifer Crompton, “Federal contractor pays workers despite shutdown,” *WMUR/Channel 9*, Manchester, New Hampshire, January 23, 2019, accessed here: <https://www.wmur.com/article/federal-contractor-pays-workers-despite-shutdown/26016877> and Sarah Ruiz-Grossman, “Shutdown Leaves Government Contractors Without Work And Likely No Back Pay,” (updated) January 2, 2019, accessed here: www.huffingtonpost.com/entry/government-contractors-shutdown-wages-lost_us_5c255621e4b08aaf7a8ed79a

- Please provide all records, including memoranda, guidance documents, legal opinions, summaries or other documents that indicate how your agency has defined an “essential” employee. This should include any specific tasks or functions that your Agency has deemed “essential.”
- Please provide copies of all records, including memoranda, summaries, after action reports or other documents that indicate the potential or actual impact, delay or damage to research and standards efforts within your agency that were adversely affected by the government shutdown, including long-term consequences of the shutdown.
- Government shutdowns incur costs greater than those of an open, fully functioning federal government.¹³ Please provide all agency assessments, impact analyses, memoranda, or other records that address both the potential, actual or anticipated cost and consequences from the government shutdown on your agency.
- Please provide an itemized list of travel plans by agency employees, contractors and grantee recipients that were postponed, rescheduled or cancelled as a result of the government shutdown.
- Please provide an itemized list of Office of Research and Development (ORD) publications, including updates to chemicals under review by the Integrated Risk Information System (IRIS), that will be delayed or postponed due to the government shutdown.
- Please provide an itemized list of meetings of all Federal Advisory Committees, subcommittees, and subpanels at the Agency that will be or have been rescheduled or postponed due to the government shutdown.
- Please provide an updated timeline of National Ambient Air Quality Standards (NAAQS) reviews that were delayed or otherwise impacted by the government shutdown.

While scientific data help to provide the basis for the potential impact of harm to human health from environmental exposures, EPA inspections help to quantify the levels to which the public and the environment are being exposed to toxic substances.

- How many EPA-led environmental inspections were cancelled or delayed as a result of the shutdown, and what remediation plans are in place to ensure that pollution inspections, both scheduled site visits and unannounced inspections, are rescheduled?
- Please provide an itemized list of all EPA inspections that were cancelled or delayed between your closure on December 28, 2018, and January 25, 2019, when the government reopened. Please indicate the name of the facility, its location, when the

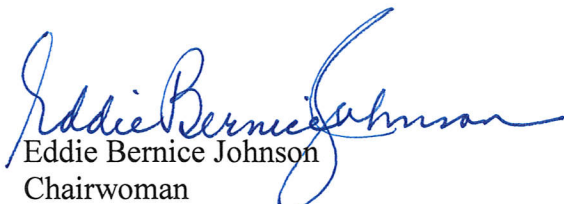
¹³ Jim Tankersley, “A Shut Down Government Actually Costs More Than an Open One,” *New York Times*, January 9, 2019, accessed here: <https://www.nytimes.com/2019/01/09/us/politics/shutdown-government-costs.html>

inspection was supposed to take place and the new proposed inspection date if it has been rescheduled.

Under the “special oversight” clause of Rule X of the U.S. House of Representatives, the “Committee on Science, Space, and Technology shall review and study on a continuing basis laws, programs, and Government activities relating to nonmilitary research and development.”¹⁴

Please produce two sets of requested records in a searchable electronic format. One set should be delivered to the Majority Staff of the Science, Space, and Technology Committee in Room 2321 of the Rayburn House Office Building and one set should be delivered to the Minority Staff in Room #394 of the Ford House Office Building. Please ensure these documents are produced and delivered by Thursday, February 14, 2019. If you have any questions regarding this request please have your staff contact Priyanka Hooghan on the Majority Staff of the Science, Space, and Technology Committee at (202) 225-6375.

Sincerely,


Eddie Bernice Johnson
Chairwoman
Committee on Science, Space & Technology

cc: Rep. Frank Lucas, Ranking Member, Committee on Science, Space & Technology

¹⁴ Rule X, Organization of Committees, U.S. House of Representatives, accessed here:
<https://www.govinfo.gov/content/pkg/HMAN-115/xml/HMAN-115-pg441.xml>