March 22, 2019

The Honorable Andrew Wheeler
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Wheeler:

The consent decree driven deadline is approaching for the U.S. Environmental Protection Agency (EPA) to decide whether it needs to take steps under Subtitle D of the Resource Conservation and Recovery Act (RCRA) with regard to oil and gas production wastes. The American Petroleum Institute (API) and the Independent Petroleum Association of America (IPAA) continue to believe that state regulatory programs properly and effectively manage these wastes. Consequently, the two organizations believe EPA should conclude that additional federal action under Subtitle D is unnecessary and could be counterproductive.

State primacy in managing oil and gas production wastes has been well established since EPA recognized their effective programs in its 1998 Regulatory Determination that Subtitle C regulation of these wastes was inappropriate. States continue to demonstrate their commitment to maintaining their primary role. In this regard, API and IPAA strongly support the initiatives set forth in the letter submitted to you by the Interstate Oil & Gas Compact Commission (IOGCC) and the Ground Water Protection Council (GWPC) through their joint effort, the State Oil and Gas Regulatory Exchange (Exchange). Their offer to use the Exchange to assist EPA by compiling data and information on recent state actions to strengthen their regulatory programs and to update that information annually will provide EPA with the material it needs to conclude that federal action is unwarranted and provide the ongoing flow of material to allow EPA meet its triennial requirement to make future Subtitle D determinations.

Resolving this issue now by supporting this state-based effort will prevent further efforts to inappropriately push EPA into actions that interfere with the state-federal relationship that has worked effectively since the 1988 Regulatory Determination. This reliable understanding of the regulatory balance is important for American oil and natural gas producers who need a stable regulatory framework to plan and execute the development of American resources.

Thank you.

Erik Milito
Vice President
Upstream and Industry Operations
American Petroleum Institute

Lee O. Fuller
Executive Vice President of Government Relations
Independent Petroleum Association of America