Message

Sent: 8/22/2018 10:18:56 PM
To: Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]
CC: Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]
Subject: RE: URGENT: Need Barry/Steven/Peter review before 3pm Thursday

Jackie

I have only one change to these well drafted responses.

On page 4, the last paragraph of the answer to 53.c I would slightly modify the answer as follows (I think I have the facts correct):

Deliberative Process / Ex. 5

From: Harwood, Jackie
Sent: Wednesday, August 22, 2018 6:04 PM
To: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Manges, Ellen <Manges.Ellen@epa.gov>
Subject: URGENT: Need Barry/Steven/Peter review before 3pm Thursday
Importance: High

Hi Barry, Steven and Peter,

Attached are OLEM's draft responses to the questions for the record (QFRs) sent to Acting Administrator Wheeler after his SEPW hearing on 8/1 – for your review. These responses have all been reviewed by the OLEM Office Directors, and OGC reviewed all but #53 (Superfund and climate change). I reviewed them all as well.

These are due to OCIR by 3:00 pm tomorrow (Thursday), which as you've probably heard, is a very firm deadline. Please get back to me with any comments or edits before 3:00 pm if possible.

And let me know if you have any questions or concerns.

Thank you.
Jackie

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

Appointment

From: Breen, Barry [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1B44BCE1A71E4A95ACAF82F2FBC858B0-BBREEN]
Sent: 8/21/2018 3:43:05 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [cook.steven@epa.gov]; Taylor, Trish [Taylor.Trish@epa.gov]; Johnson, Barnes [Johnson.Barnes@epa.gov]; Salyer, Kathleen [Salyer.Kathleen@epa.gov]; Devlin, Betsy [Devlin.Betsy@epa.gov]; Elliott, Ross [Elliott.Ross@epa.gov]; Young, Jessica [Young.Jessica@epa.gov]; Kirkland, Kim [Kirkland.Kim@epa.gov]; Fagnant, Daniel [fagnant.daniel@epa.gov]; Huggins, Richard [Huggins.Richard@epa.gov]; Hillyer, Kirsten [hillyer.kirsten@epa.gov]; Sundin, Elizabeth [Sundin.Elizabeth@epa.gov]; Sullivan, Drew [sullivan.drew@epa.gov]; Ames, Jeremy [Ames.Jeremy@epa.gov]; Arcari, Christine [Arcari.Christine@epa.gov]; Brooks, Becky [Brooks.Becky@epa.gov]; Hilosky, Nick [Hilosky.Nick@epa.gov]; Harwood, Jackie [Harwood.Jackie@epa.gov]; Fitzgerald, Kristin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9c0207e0f6a643009d2a06ee62b0ec74-KFitzger]; Kaps, Melissa [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2fd9ca1cc4f145df83c8bdd2b683a290-mkaps]
CC: Langlois-Miller, Christina [Langlois-Miller.Christina@epa.gov]

Subject: Communications Planning Meeting for Upcoming ORCR Announcements
Location: DCRoomWest4144GCIVTCPolycom/OLEM

Start: 9/10/2018 5:00:00 PM
End: 9/10/2018 6:00:00 PM
Show Time As: Tentative

Purpose: To discuss key messages and communications products for the following announcements:

Deliberative Process / Ex. 5

Message

From: wright.peter@epa.gov [wright.peter@epa.gov]
Sent: 8/15/2018 1:43:49 PM
To: Darwin, Veronica [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc98aaf2f15a466baede3dab0e27a35e-Darwin, Ver]
CC: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: Re: metrics; abandoned mines, rulemakings

Veronica

Thank you for the information and suggestions. I look forward to further discussions.

Peter

Sent from my iPad

On Aug 15, 2018, at 5:57 AM, Darwin, Veronica <darwin.veronica@epa.gov> wrote:

> Good Morning,
> As a follow-up to my discussion with Steven on Monday, I reached out to Katherine Dawes who is working on posting performance measures in OLEM's IO. I have asked to meet with her on Friday to discuss progress thus far – will have an update for you by the end of the week. On a separate but related
>
> Deliberative Process / Ex. 5
>
> Deliberative Process / Ex. 5 If you haven't already, could you please discuss with Administrator Wheeler to determine if this is still a priority?
>
> Steven, we also talked about tracking progress on rulemakings. I have learned OP is tracking rule development for Tier 1 and Tier 2 actions that are active in the reg agenda and any actions included in the reg plan that are active in the reg agenda. Deliberative Process / Ex. 5
>
> Deliberative Process / Ex. 5
>
> Deliberative Process / Ex. 5 Thanks. Happy to discuss.
> Veronica

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

<Tracking Priority Actions OLEM.XLSX>

Appointment

From: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]
Sent: 8/21/2018 3:43:05 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [cook.steven@epa.gov]; Taylor, Trish [Taylor.Trish@epa.gov]; Johnson, Barnes [Johnson.Barnes@epa.gov]; Salyer, Kathleen [Salyer.Kathleen@epa.gov]; Devlin, Betsy [Devlin.Betsy@epa.gov]; Elliott, Ross [Elliott.Ross@epa.gov]; Young, Jessica [Young.Jessica@epa.gov]; Fitzgerald, Kristin [Fitzgerald.Kristin@epa.gov]; Kirkland, Kim [Kirkland.Kim@epa.gov]; Fagnant, Daniel [fagnant.daniel@epa.gov]; Kaps, Melissa [Kaps.Melissa@epa.gov]; Huggins, Richard [Huggins.Richard@epa.gov]; Hillyer, Kirsten [hillyer.kirsten@epa.gov]; Sundin, Elizabeth [Sundin.Elizabeth@epa.gov]; Sullivan, Drew [sullivan.drew@epa.gov]; Ames, Jeremy [Ames.Jeremy@epa.gov]; Arcari, Christine [Arcari.Christine@epa.gov]; Brooks, Becky [Brooks.Becky@epa.gov]; Hilosky, Nick [Hilosky.Nick@epa.gov]; Harwood, Jackie [Harwood.Jackie@epa.gov]
CC: Langlois-Miller, Christina [Langlois-Miller.Christina@epa.gov]

Subject: Communications Planning Meeting for Upcoming ORCR Announcements
Location: DCRoomWest4144GCIVTCPolycom/OLEM

Start: 9/11/2018 5:00:00 PM
End: 9/11/2018 6:00:00 PM
Show Time As: Tentative

Purpose: To discuss key messages and communications products for the following announcements:

Deliberative Process / Ex. 5

Appointment

From: Breen, Barry [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1B44BCE1A71E4A95ACAF82F2FBC858B0-BBREEN]
Sent: 8/21/2018 4:26:45 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [cook.steven@epa.gov]; Taylor, Trish [Taylor.Trish@epa.gov]; Johnson, Barnes [Johnson.Barnes@epa.gov]; Salyer, Kathleen [Salyer.Kathleen@epa.gov]; Devlin, Betsy [Devlin.Betsy@epa.gov]; Elliott, Ross [Elliott.Ross@epa.gov]; Young, Jessica [Young.Jessica@epa.gov]; Huggins, Richard [Huggins.Richard@epa.gov]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Sullivan, Drew [sullivan.drew@epa.gov]; Ames, Jeremy [Ames.Jeremy@epa.gov]; Arcari, Christine [Arcari.Christine@epa.gov]; Hilosky, Nick [Hilosky.Nick@epa.gov]; Harwood, Jackie [Harwood.Jackie@epa.gov]; Atagi, Tracy [Atagi.Tracy@epa.gov]; Behan, Frank [Behan.Frank@epa.gov]; Miller, Jesse [Miller.Jesse@epa.gov]; Coleman, Cheryl [Coleman.Cheryl@epa.gov]; Bergman, Shawna [Bergman.Shawna@epa.gov]; Vance, Ronald [Vance.Ronald@epa.gov]; Brooks, Becky [Brooks.Becky@epa.gov]
CC: Ganguli, Swarupa [Ganguli.Swarupa@epa.gov]; Bray, Brandon [Bray.Brandon@epa.gov]

Subject: Communications Planning Meeting for November ORCR Announcements
Location: DCRoomWest4144GCIVTCPolycom/OLEM

Start: 10/1/2018 5:00:00 PM
End: 10/1/2018 6:00:00 PM
Show Time As: Tentative

Purpose: To discuss key messages and communications products for the following announcements:

Deliberative Process / Ex. 5

Appointment

From: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]
Sent: 7/31/2018 8:34:32 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [cook.steven@epa.gov]; DavidR Lloyd [Lloyd.DavidR@epa.gov]; Overmeyer, Patricia [Overmeyer.Patricia@epa.gov]; Lentz, Rachel [Lentz.Rachel@epa.gov]; Quinn, Megan [Quinn.Megan@epa.gov]; Storm, Aimee [Storm.Aimee@epa.gov]; Brooks, Becky [Brooks.Becky@epa.gov]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Minor-Gordon, Jerry [Minor-Gordon.Jerry@epa.gov]; Congdon, Rachel [Congdon.Rachel@epa.gov]

Subject: OBLR BUILD Act Implementation
Location: 3146 epaw

Start: 8/7/2018 2:00:00 PM
End: 8/7/2018 2:45:00 PM
Show Time As: Busy

Purpose: The purpose of this meeting is to brief the AA on OBLR's BUILD Act implementation plan for the FY19 Brownfields grant cycle.

POC: Rachel Lentz 202/566-2745
Sch: Teresa Hill 202-566-0184

Appointment

From: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Sent: 7/24/2018 2:20:11 PM
To: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Lloyd, David [Lloyd.DavidR@epa.gov]; Overmeyer, Patricia [Overmeyer.Patricia@epa.gov]; Brooks, Becky [Brooks.Becky@epa.gov]; Hilosky, Nick [Hilosky.Nick@epa.gov]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]

Subject: Brownfields Coordinator Meeting
Location: PY South First Floor Conf. Room (S1204/06)

Start: 7/31/2018 12:30:00 PM
End: 7/31/2018 12:45:00 PM
Show Time As: Busy

Contact

Full Name: Lloyd, David
Last Name: Lloyd
First Name: David
Company: OLEM

Business Phone: 202-566-2731

IM Address: sip:lloyd.davidr@epa.gov

E-mail: Lloyd.DavidR@epa.gov

Message

From: Eoc, Epahq [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=319C6923068646D3A80AE77907F63C68-EOC, EPAHQ]
Sent: 7/18/2018 4:26:28 PM
To: Eoc, Epahq [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=319c6923068646d3a80ae77907f63c68-Eoc, Epahq]
Subject: EOC Spot Report: Region 6, Explosion at the Western International Gas & Cylinders Plant, Bellville, TX (NRC# 1218673) - Update #2

This report is being sent as a bcc to prevent accidental reply-all messages

UNCLASSIFIED//FOR OFFICIAL USE ONLY

EOC Spot Report: Region 6, Explosion at the Western International Gas & Cylinders Plant, Bellville, TX (NRC # 1218673) – Update #2

U.S. Environmental Protection Agency

Report as of July 18, 2018 at 12:30 ET

Overview: On July 17, an explosion occurred at the Western International Gas & Cylinders Plant in Bellville, Austin County, Texas resulting in the release of Acetylene gas into the atmosphere. Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

d Ex. 5 Deliberative Process (DP) This facility is regulated under EPA's Risk Management Plan (RMP).

State, Local and other Federal Agency Actions: Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

EPA Actions: Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Media Interest: Low (local)

https://www.khou.com/article/news/local/austin-county-gas-plant-explosion-forces-evacuations/285-574643494
http://abc13.com/explosion-rocks-gas-plant-in-bellville-texas/3776093/
https://foxsanantonio.com/news/local/explosion-rocks-gas-plant-in-bellville-texas

The HQ EOC will continue to monitor and provide updates as needed

UNCLASSIFIED//FOR OFFICIAL USE ONLY

Steve Ridenour, Senior Watch Officer
U.S Environmental Protection Agency
Headquarters Emergency Operations Center
1200 Pennsylvania Ave
Washington, DC 20004
202-564-3850
mailto:eoc.epahq@epa.gov

Message

From: Eoc, Epahq [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=319C6923068646D3A80AE77907F63C68-EOC, EPAHQ]
Sent: 7/18/2018 3:41:12 PM
Subject: EOC Daily Emergency Management Report for July 18, 2018

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Greta Harman, Watch Officer
U.S. Environmental Protection Agency
Headquarters Emergency Operations Center
1200 Pennsylvania Ave. N.W.
Washington, DC 20004
202-564-3850
mailto:eoc.epahq@epa.gov

Message

From: Richmond, Jonah [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=211DE7E240BA4584BE906E73DBE9B6AD-RICHMOND, JONAH]
Sent: 7/9/2018 10:02:43 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: RE: Announcing New Agency Senior Leaders

That would be great. I will be out next week, but after that I have a lot of availability.

Jonah

Jonah Richmond
Conflict Prevention and Resolution Center
U.S. Environmental Protection Agency
"Making Agreement Easier" | (202) 564-0210
http://intranet.epa.gov/adr or http://www.epa.gov/adr
Watch this 3 minute video to learn more about mediation and facilitation at EPA.

From: Wright, Peter
Sent: Monday, July 09, 2018 1:26 PM
To: Richmond, Jonah <Richmond.Jonah@epa.gov>
Subject: RE: Announcing New Agency Senior Leaders

Jonah

Thank you! We will have to get lunch sometime.

Peter

From: Richmond, Jonah
Sent: Friday, July 6, 2018 6:00 PM
To: Wright, Peter <wright.peter@epa.gov>
Subject: FW: Announcing New Agency Senior Leaders

Congratulations Peter! Welcome.

Jonah Richmond
Conflict Prevention and Resolution Center
U.S. Environmental Protection Agency
"Making Agreement Easier" | (202) 564-0210
http://intranet.epa.gov/adr or http://www.epa.gov/adr
Watch this 3 minute video to learn more about mediation and facilitation at EPA.

From: Message from the Chief of Staff
Sent: Friday, July 06, 2018 1:38 PM
To: Message from the Chief of Staff <messagefromthechiefofstaff@epa.gov>
Subject: Announcing New Agency Senior Leaders

MESSAGE FROM THE CHIEF OF STAFF

This email message is being sent to EPA employees.

Colleagues,

I am pleased to report that we have new senior leaders joining the agency. Please join me in welcoming Peter Wright and Chad McIntosh to EPA.

Peter Wright, Special Counsel to the Administrator: Peter Wright, who has also been nominated to be the Assistant Administrator for the Office of Land and Emergency Management, will join the agency on July 9. Peter brings exceptional experience to EPA's cleanup programs and has the expertise necessary to implement EPA's ambitious goals for cleaning up the nation's contaminated lands quickly and thoroughly. Throughout his career, he has provided legal support for Superfund and other remediation sites, including work at Monsanto and with environmental practices at two law firms. Since 1999, he has worked at Dow Chemical Company where he served as Managing Counsel for Environmental Health and Safety, leading the company's strategies regarding Superfund sites and other federal and state-led remediation matters. In addition, Peter has been a leader of the American Bar Association's Environment, Energy and Resources Section and volunteered his time, alongside many from EPA, on the RCRA Corrective Action Project.

W. Charles "Chad" McIntosh, Special Counsel to the Administrator: Chad McIntosh, who has also been nominated to be the Assistant Administrator for International and Tribal Affairs, will join the agency on July 9. Chad's unique background as an engineer and attorney in global environmental compliance makes him a valuable asset and well-suited to advise the Acting Administrator on international and tribal matters. Since 1998, he has worked at Ford Motor Company, most recently serving as Manager of Global Environmental Policy, where he led efforts to improve environmental permitting, compliance, and environmental metrics at the company's manufacturing facilities in the United States, Canada, and Europe. Prior to joining Ford, Chad served as Deputy Director at the Michigan Department of Environmental Quality, where he was responsible for environmental permitting and compliance activities. He also worked closely with state and tribal leaders on comprehensive environmental and regulatory reform in Michigan, including codifying the environmental and natural resources statutes, and improving the state's wastewater infrastructure.

Ryan Jackson
Chief of Staff

Message

From: Eoc, Epahq [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=319C6923068646D3A80AE77907F63C68-EOC, EPAHQ]
Sent: 7/18/2018 1:09:48 AM
To: Eoc, Epahq [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=319c6923068646d3a80ae77907f63c68-Eoc, Epahq]
Subject: EOC Spot Report: Region 6, Explosion at the Western International Gas & Cylinders Plant, Bellville, TX (NRC# 1218673) - Update #1

This report is being sent as a bcc to prevent accidental reply-all messages

UNCLASSIFIED//FOR OFFICIAL USE ONLY

EOC Spot Report: Region 6, Explosion at the Western International Gas & Cylinders Plant, Bellville, TX (NRC # 1218673) – Update #1

U.S. Environmental Protection Agency

Report as of July 17, 2018 at 21:15 ET

Overview: On July 17, an explosion occurred at the Western International Gas & Cylinders Plant in Bellville, Austin County, Texas Ex. 5 Deliberative Process (DP) Ex. 5 Deliberative Process (DP) Ex. 5 Deliberative Process (DP) Ex. 5 Deliberative Process (DP) This facility is regulated under EPA's Risk Management Plan (RMP).

State, Local and other Federal Agency Actions: Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

EPA Actions: Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Media Interest: Medium (local)

https://www.khou.com/article/news/local/austin-county-gas-plant-explosion-forces-evacuations/285-574643494
https://www.middletownpress.com/news/texas/article/Nobody-hurt-in-gas-cylinder-company-fire-in-13081387.php
http://abc13.com/explosion-rocks-gas-plant-in-bellville-texas/3776093/
https://foxsanantonio.com/news/local/explosion-rocks-gas-plant-in-bellville-texas

The HQ EOC will continue to monitor and provide updates as needed

UNCLASSIFIED//FOR OFFICIAL USE ONLY

Steve Ridenour, Senior Watch Officer
U.S Environmental Protection Agency
Headquarters Emergency Operations Center
1200 Pennsylvania Ave
Washington, DC 20004
202-564-3850
mailto:eoc.epahq@epa.gov

Appointment

From: Hilosky, Nick [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=39E1182AC8CD4709AE0787CA4A068D2D-NHILOSKY]
Sent: 7/31/2018 8:34:30 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]

Subject: OBLR BUILD Act Implementation
Location: 3146 epaw

Start: 8/7/2018 2:00:00 PM
End: 8/7/2018 2:45:00 PM
Show Time As: Tentative

Purpose: The purpose of this meeting is to brief the AA on OBLR's BUILD Act implementation plan for the FY19 Brownfields grant cycle.

POC: Rachel Lentz 202/566-2745
Sch: Teresa Hill 202-566-0184

Message

From: Eoc, Epahq [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=319C6923068646D3A80AE77907F63C68-EOC, EPAHQ]
Sent: 7/17/2018 4:50:06 PM
To: Eoc, Epahq [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=319c6923068646d3a80ae77907f63c68-Eoc, Epahq]
Subject: EOC Spot Report: Region 6, Explosion at the Western International Gas Plant, Bellville, TX

This report is being sent as a bcc to prevent accidental reply-all messages

UNCLASSIFIED//FOR OFFICIAL USE ONLY

EOC Spot Report: Region 6, Explosion at the Western International Gas & Cylinders Plant, Bellville, TX

U.S. Environmental Protection Agency

Report as of July 17, 2018 at 12:45 ET

Overview: On July 17, an explosion occurred at the Western International Gas & Cylinders Plant in Bellville, Austin County, Texas. Ex. 5 Deliberative Process (DP) Ex. 5 Deliberative Process (DP) This facility is regulated under EPA's Risk Management Plan (RMP); the RMP database reports that the facility may contain Acetylene, a flammable chemical.

State, Local and other Federal Agency Actions: Ex. 5 Deliberative Process (DP) Ex. 5 Deliberative Process (DP)

EPA Actions: A Region 6 OSC and START have been mobilized to the scene.

Media Interest: Medium (local)

https://www.khou.com/article/news/local/austin-county-gas-plant-explosion-forces-evacuations/285-574643494
https://www.middletownpress.com/news/texas/article/Nobody-hurt-in-gas-cylinder-company-fire-in-13081387.php
http://abc13.com/explosion-rocks-gas-plant-in-bellville-texas/3776093/

The HQ EOC will continue to monitor and provide updates as needed

UNCLASSIFIED//FOR OFFICIAL USE ONLY

Steve Ridenour, Senior Watch Officer
U.S Environmental Protection Agency
Headquarters Emergency Operations Center
1200 Pennsylvania Ave
Washington, DC 20004
202-564-3850
mailto:eoc.epahq@epa.gov

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/27/2018 7:11:54 PM
To: Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]; Palich, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=330ad62e158d43af93fcbbece930d21a-Palich, Chr]; Frye, Tony (Robert) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=58c08abdfc1b4129a10456b78e6fc2e1-Frye, Rober]; Levine, Carolyn [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=468b48e304cf4c54a52bb7c83a54fd21-CLevin02]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]
Subject: OLEM's Updated Talking Points for Acting Administrator's Background Book
Attachments: UpdatedOLEMFSTalkingPoints.docx; R4- MS-MISSISSIPPI PHOSPHATE 7-27.docx; R2-NY-HUDSON RIVER SUPERFUND SITE 2-27.docx; R10-OR-PORTLAND HARBOR SUPERFUND SITE 7-27.docx; R2-NY-HOOSICK FALLS SITES REV.DOCX; R2-NJ-American Cyanamid REV.DOCX; R2-NJ-BERRYS CREEK STUDY AREA REV.DOCX; R7- IA-Des Moines TCE site REV.DOCX; R2- NJ- PASSAIC RIVER osrti.docx; R2- NJ-LOWER HACKENSACK RIVER osrti.docx; R1-Centerdale Manor Superfund Site July 2018 REV.DOCX; R3-Delaware Sites-Carper osrti.docx

Attached are OLEM's updated talking points for Administrator Wheeler's background book.

Please let us know if you have any questions or need anything else on this.

Thanks.
Jackie

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Breen, Barry
Sent: Friday, July 27, 2018 11:53 AM
To: Brooks, Becky <Brooks.Becky@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Woolford, James <Woolford.James@epa.gov>; Gartner, Lois <Gartner.Lois@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>
Subject: See note re 3 pm

Begin forwarded message:

From: "Lyons, Troy" <lyons.troy@epa.gov>
Date: July 27, 2018 at 11:40:52 AM EDT
To: "Wehrum, Bill" <Wehrum.Bill@epa.gov>, "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>, "Ross, David P" <ross.davidp@epa.gov>, "Wildeman, Anna" <wildeman.anna@epa.gov>, "Forsgren, Lee" <Forsgren.Lee@epa.gov>, "Vizian, Donna" <Vizian.Donna@epa.gov>, "Cook, Steven" <cook.steven@epa.gov>, "Breen, Barry" <Breen.Barry@epa.gov>, "Wright, Peter" <wright.peter@epa.gov>, "Yamada, Richard (Yujiro)" <yamada.richard@epa.gov>, "Greaves, Holly" <greaves.holly@epa.gov>, "Hanson, Paige (Catherine)" <hanson.catherine@epa.gov>, "Traylor, Patrick" <traylor.patrick@epa.gov>, "Bodine, Susan" <bodine.susan@epa.gov>, "Leopold, Matt (OGC)" <Leopold.Matt@epa.gov>, "Beck, Nancy" <Beck.Nancy@epa.gov>, "Bertrand, Charlotte" <Bertrand.Charlotte@epa.gov>, "Baptist, Erik" <Baptist.Erik@epa.gov>
Cc: "Jackson, Ryan" <jackson.ryan@epa.gov>, "Frye, Tony (Robert)" <frye.robert@epa.gov>, "Rodrick, Christian" <rodrick.christian@epa.gov>, "Palich, Christian" <palich.christian@epa.gov>, "Ringel, Aaron" <ringel.aaron@epa.gov>, "Morgan, Ashley" <morgan.ashley@epa.gov>, "Shimmin, Kaitlyn" <shimmin.kaitlyn@epa.gov>, "Kaiser, Sven-Erik" <Kaiser.Sven-Erik@epa.gov>, "Darwin, Henry" <darwin.henry@epa.gov>, "Levine, Carolyn" <Levine.Carolyn@epa.gov>, "Moody, Christina" <Moody.Christina@epa.gov>, "Thundiyil, Karen" <Thundiyil.Karen@epa.gov>, "Davis, Matthew" <Davis.Matthew@epa.gov>
Subject: RE: Updated Talking Points Due COB Today

3:00PM Deadline TODAY

From: Lyons, Troy
Sent: Friday, July 27, 2018 10:37 AM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Vizian, Donna <Vizian.Donna@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Hanson, Paige (Catherine) <hanson.catherine@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Rodrick, Christian <rodrick.christian@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Aaron Ringel (ringel.aaron@epa.gov) <ringel.aaron@epa.gov>; Morgan, Ashley <morgan.ashley@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>; Darwin, Henry <darwin.henry@epa.gov>; Levine, Carolyn <Levine.Carolyn@epa.gov>; Moody, Christina <Moody.Christina@epa.gov>; Thundiyil, Karen <Thundiyil.Karen@epa.gov>; Davis, Matthew <Davis.Matthew@epa.gov>
Subject: Updated Talking Points Due COB Today
Importance: High

As a reminder—the updated talking points from the briefings with the Administrator are **DUE COB TODAY** for the following offices: OAR, OW, OARM, OLEM, OCFO and ORD. This is per the Administrator's request to be able to review the materials this weekend. Let me know if you need the specific action items for your program office.

Updated talking points for OCFO, ORD, OP (briefings occurring later today) should they be needed, will be **due by NOON on MONDAY.**

Troy M. Lyons
Associate Administrator
Office of Congressional & Intergovernmental Relations
U.S. Environmental Protection Agency

Cell/Ex. 6

CENTERDALE MANOR SUPERFUND SITE- RI

BACKGROUND:

- The Centredale Manor Superfund site consists of a nine-acre parcel located along the Woonasquatucket River in North Providence, RI, as well as a 1.5-mile stretch of river, including two ponds, riverbanks on residential properties, and a large forested wetland.

- Site soils, sediments, fish/biota, and groundwater are contaminated with high levels of dioxin and other contaminants.

- The site was added to the NPL in 2000 after dioxin was discovered in fish. Several short-term cleanups to control immediate risks have been performed by EPA and the state. In September 2012, EPA issued its cleanup decision in its Record of Decision.

- Since 2011, EPA has been in litigation with Black & Decker. In 2014, EPA issued a unilateral administrative order to Black & Decker directing it to conduct the cleanup. In September 2015, the District Court for the District of Rhode Island found Black & Decker jointly and severally liable as a past operator.

- In August 2017, the Court issued a decision in the second phase of litigation, upholding EPA's remedy in large part and stayed enforcement of EPA's unilateral order until resolution of these matters.

- On July 9, 2018, the United States lodged a Consent Decree with the U.S. District Court for the District of Rhode Island (Smith, J.) resolving our CERCLA enforcement against Emhart at this site. The State of Rhode Island is also a party to the decree. We are currently in the 30-day comment period. Following the comment period, the United States will respond to comments and move to enter the Consent Decree with the Court.

KEY POINTS:

- In December 2017, EPA included the Centredale Manor Site on the Administrator's Emphasis List because of the enforcement impasse.

- The proposed settlement resolves litigation between Emhart and Black & Decker and the United States, including the Court's recent decision requiring EPA to reconsider certain aspects of the remedy. The responsible party reimburses the government for response costs and performs the cleanup at the site, consistent with CERCLA's polluter-pays policy.

TALKING POINTS:

- Cleanup at this site has been delayed for nearly seven years due to litigation and I am pleased to say we have a proposed settlement that allows cleanup to begin.

- This is great outcome for the communities of North Providence and Johnston and moves us towards having a fishable and swimmable river for the community to enjoy.

ED_002087_00000172-00001

LOWER PASSAIC RIVER SUPERFUND SITE-NJ

BACKGROUND:

- The river is contaminated with dioxin, polychlorinated biphenyls (PCBs), pesticides, mercury and other contaminants. The sediment contamination has closed fisheries, hampered local waterfront development plans, and increased the ports of NY and NJ'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.

- In March 2016, EPA issued a record of decision (ROD) for an estimated $1.38 billion cleanup plan to address the lower 8.3 miles. Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

KEY POINTS:

-
- Ex. 5 Deliberative Process (DP)

TALKING POINTS:

-
-
- Ex. 5 Deliberative Process (DP)
-

ED_002087_00000173-00001

DES MOINES TCE SITE/ DICO, INC. -IA
ONGOING WORK AND LITIGATION

BACKGROUND:

- The Des Moines TCE Superfund Site includes a 43-acre property, owned by Dico, Inc., which contains contaminated, dilapidated buildings on-site. The site has historically been used for industrial purposes, but there is substantial redevelopment opportunity.

- Contamination at this National Priorities List site consists of Volatile Organic Compounds groundwater plumes, as well as pesticides, PCBs, and dioxin in on-site soils, buildings, and a pond. The contamination originated from on-site steel wheel manufacturing, which used TCE for degreasing, and from on-site chemical and pesticide formulation.

- Dico has historically been unwilling to perform work voluntarily at the Site. Under three separate Unilateral Orders issued by EPA, Dico performed remedial actions of 1) installation and operation of a groundwater pump and treat system; 2) capping of site soils; and 3) cleaning and encapsulation of interior building surfaces, including long-term maintenance.

- In 2010, the U.S. brought an action alleging that Dico and its corporate affiliate, Titan Tire Corporation had arranged for the disposal of the PCBs in the buildings and violated the 1994 Order pertaining to the use of the buildings. After a series of court decisions, in September 2017, the U.S. was awarded approximately $11M in past response costs, punitive damages, and civil penalties. Dico has appealed that decision to the Eighth Circuit.

KEY POINTS:

- EPA, Iowa Department of Natural Resources (IDNR), the city of Des Moines, and representatives from Titan Tire would like to see the site put back into productive reuse and are in the process of defining the remaining response costs at the site.

TALKING POINTS:

- In March 2018, the potentially responsible parties expressed an interest in entering into a settlement agreement with EPA on this site.

- EPA is working collaboratively with the City of Des Moines and the Iowa Department of Natural Resources to help put the site back into productive reuse.

- Since this matter is in litigation, I am not able to comment regarding any ongoing discussions with the potentially responsible parties.

ED_002087_00000181-00001

Message

From: Cook, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=394F5DEDE6184BC083CF9390E49A192C-COOK, STEVE]
Sent: 8/23/2018 10:48:04 PM
To: Bolen, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31e872a691114372b5a6a88482a66e48-Bolen, Brit]
CC: Darwin, Veronica [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc98aaf2f15a466baede3dab0e27a35e-Darwin, Ver]; Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: RE: Bi Weekly-OLEM Meeting

We really appreciate OP's efforts on OLEM's behalf. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Bolen, Brittany
Sent: Thursday, August 23, 2018 6:35 PM
To: Cook, Steven <cook.steven@epa.gov>
Cc: Darwin, Veronica <darwin.veronica@epa.gov>; Lovell, Will (William) <lovell.william@epa.gov>
Subject: RE: Bi Weekly-OLEM Meeting

No problem, Steven. It was a short meeting today. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Cook, Steven
Sent: Thursday, August 23, 2018 4:42 PM
To: Bolen, Brittany <bolen.brittany@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>; Feeley, Drew (Robert) <Feeley.Drew@epa.gov>; Lovell, Will (William) <lovell.william@epa.gov>
Cc: Inge, Carolyn <inge.Carolyn@epa.gov>
Subject: RE: Bi Weekly-OLEM Meeting

My apologies – a meeting on Deliberative Process / Ex. 5 ran significantly long. Is there any follow up for me?

-----Original Appointment-----
From: Bolen, Brittany
Sent: Thursday, July 26, 2018 9:13 AM
To: Bolen, Brittany; Cook, Steven; Darwin, Veronica; Feeley, Drew (Robert); Lovell, Will (William)
Cc: Inge, Carolyn
Subject: Bi Weekly-OLEM Meeting
When: Thursday, August 23, 2018 4:00 PM-4:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: DCRoomARN3500/OPEI

Appointment

From: Jones, Knolyn [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5CAAB6DD464F4B1B956ACA09932B2E32-JONES, KNOLYN]
Sent: 8/21/2018 3:43:03 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Taylor, Trish [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2bf5f5220f7144d380741509abaeecd7-Ptaylo03]; Johnson, Barnes [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c39e9338cbf04dc3b4b29f78e5213303-Johnson, Barnes]; Salyer, Kathleen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d78fb62f65cd4cd8be1c87c7e4c4ccde-KSALYER]; Devlin, Betsy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b76a4bf5afc84459a6bf2a6a4645f40f-BDEVLIN]; Elliott, Ross [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33cb08013cc94c21a3e3236dbad4c4a4-REELLIOT]; Young, Jessica [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=26404c78d3dc441f810ac723cf8f9d49-JBIEGELS]; Fitzgerald, Kristin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9c0207e0f6a643009d2a06ee62b0ec74-KFitzger]; Kirkland, Kim [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8e9300ca20a74c8484aee12a5010fc3f-Kirkland, Kim]; Fagnant, Daniel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=03444b1da5e34bac88e40565e283128e-Fagnant, Da]; Kaps, Melissa [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2fd9ca1cc4f145df83c8bdd2b683a290-mkaps]; Huggins, Richard [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0314e81a1f4843fcbbe0910cfddd53f4-Huggins, Richard]; Hillyer, Kirsten [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Hillyer, Kirsten]; Sundin, Elizabeth [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=314808a3d1a14231bef096df9829c3a8-Sundin, Eli]; Sullivan, Drew [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Sullivan, Drew]; Ames, Jeremy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d0ea90f9ea6d4247baaccc256b9cfad2-james]; Arcari, Christine [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c93124c7e66d438e93bab8f0718bb687-Arcari, Christine]
CC: Langlois-Miller, Christina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f3693771626b4e24adfc8b6db48d5707-Langlois, C]

Subject: Communications Planning Meeting for Upcoming ORCR Announcements
Location: DCRoomWest4144GCIVTCPolycom/OLEM

Start: 9/10/2018 5:00:00 PM
End: 9/10/2018 6:00:00 PM
Show Time As: Tentative

Purpose: To discuss key messages and communications products for the following announcements:

Deliberative Process / Ex. 5

Message

Sent: 8/23/2018 11:09:59 PM
To: Bolen, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31e872a691114372b5a6a88482a66e48-Bolen, Brit]
CC: Darwin, Veronica [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc98aaf2f15a466baede3dab0e27a35e-Darwin, Ver]; Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: RE: Bi Weekly-OLEM Meeting

Brittany

I want to include my thanks as well. I did not know there was a 4 p.m. meeting. If am included in future meeting notices, I will not promise to mak

---

From: Cook, Steven
Sent: Thursday, August 23, 2018 6:48 PM
To: Bolen, Brittany <bolen.brittany@epa.gov>
Cc: Darwin, Veronica <darwin.veronica@epa.gov>; Lovell, Will (William) <lovell.william@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Subject: RE: Bi Weekly-OLEM Meeting

We really appreciate OP's efforts on OLEM's behalf. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Bolen, Brittany
Sent: Thursday, August 23, 2018 6:35 PM
To: Cook, Steven <cook.steven@epa.gov>
Cc: Darwin, Veronica <darwin.veronica@epa.gov>; Lovell, Will (William) <lovell.william@epa.gov>
Subject: RE: Bi Weekly-OLEM Meeting

No problem, Steven. It was a short meeting today. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Cook, Steven
Sent: Thursday, August 23, 2018 4:42 PM
To: Bolen, Brittany <bolen.brittany@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>; Feeley, Drew (Robert) <Feeley.Drew@epa.gov>; Lovell, Will (William) <lovell.william@epa.gov>
Cc: Inge, Carolyn <inge.Carolyn@epa.gov>
Subject: RE: Bi Weekly-OLEM Meeting

My apologies – a meeting on Deliberative Process / Ex. 5 ran significantly long. Is there any follow up for me?

-----Original Appointment-----
From: Bolen, Brittany
Sent: Thursday, July 26, 2018 9:13 AM
To: Bolen, Brittany; Cook, Steven; Darwin, Veronica; Feeley, Drew (Robert); Lovell, Will (William)

Cc: Inge, Carolyn
Subject: Bi Weekly-OLEM Meeting
When: Thursday, August 23, 2018 4:00 PM-4:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: DCRoomARN3500/OPEI

Message

From: Cook, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=394F5DEDE6184BC083CF9390E49A192C-COOK, STEVE]
Sent: 8/25/2018 2:06:21 AM
To: Cheatham, Reggie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c04c7b4fbf4d45108592282991c719cb-RCheatha]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Simon, Nigel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2f1084d32324dcd965683a9d2f09764-Simon, Nigel]; Hostage, Barbara [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=13c503d29e7a4eceb13c449d182eca25-BHostage]; Jennings, Kim [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7eeab2bece9b461e949b23d538b7964a-kjenning]; Cogliano, Gerain [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4ba589a367194efd92030bfbe891a298-Cogliano, Gerain]; Gioffre, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31f5c89e985847ecaeec14283e8fc914-PFLEMI02]; Clark, Becki [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a906e07f1cd143b9a3c2ddab813b8140-Clark, Becki]; Indermark, Michele [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cf63a0730b3e4d89aa3b8ce9a5d9eab2-Indermark,]
Subject: Re: RMP Rule Vacatur Options Paper and Compliance Dates

Folks - Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

On Monday, we can discuss. No need to address this over the weekend.

Sent from my iPhone

On Aug 22, 2018, at 8:50 AM, Cheatham, Reggie <cheatham.reggie@epa.gov> wrote:

> Per our discussion yesterday, the team in RID pulled together an options paper to walk through how things potentially could unfold. We are still awaiting the results from discussions between DOJ and Industry and will update you when more information becomes available. Thoughts, comments and questions appreciated.
>
> Thanks
>
> Reggie Cheatham, Director
> Office of Emergency Management, USEPA
> 202.564.8003 (O); 202.689.9400 (M);
> cheatham.reggie@epa.gov
> Doris Williams, Executive Assistant
> 202.564.0053
>
> <Delay rule vacatur OPTIONS 8-21-18 V3.docx>
>
> <attachement - Minor Provisions of RMP Amendments Final Rule 8-21-18.docx>

Message

From: Block, Molly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=60D0C681A16441A0B4FA16AA2DD4B9C5-BLOCK, MOLL]

Sent: 7/16/2018 1:37:59 PM

To: Bennett, Tate [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1fa92542f7ca4d01973b18b2f11b9141-Bennett, El]; Gordon, Stephen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7c8fb4d82bff4eec98f5c5d00a47f554-Gordon, Ste]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Chancellor, Erin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ae6aeabeca754643bdb01c9f5b653ca6-Chancellor,]; Darwin, Veronica [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc98aaf2f15a466baede3dab0e27a35e-Darwin, Ver]; Falvo, Nicholas [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=424ac90ea7d8494a93209d14d37f2946-Falvo, Nich]; Cory, Preston (Katherine) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bfd80b15f6d04a3ba11fc8ca3c85bc50-Cory, Kathe]; Frye, Tony (Robert) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=58c08abdfc1b4129a10456b78e6fc2e1-Frye, Rober]; Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]; Morgan, Ashley [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4acef44653d440e3baab09958ffc24ea-Morgan, Ash]; Palich, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=330ad62e158d43af93fcbbece930d21a-Palich, Chr]; Ringel, Aaron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1654bdc951284a6d899a418a89fb0abf-Ringel, Aar]; Rodrick, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6515dbe46dae466da53c8a3aa3be8cc2-Rodrick, Ch]; Shimmin, Kaitlyn [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=becb3f33f9a14acd8112d898cc7853c6-Shimmin, Ka]

CC: Hewitt, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=41b19dd598d340bb8032923d902d4bd1-Hewitt, Jam]; Konkus, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=555471b2baa6419e8e141696f4577062-Konkus, Joh]; Abboud, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b6f5af791a1842f1adcc088cbf9ed3ce-Abboud, Mic]; Beach, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6b124299bb6f46a39aa5d84519f25d5d-Beach, Chri]

Subject: FINAL: EPA Finalizes First Amendments to the Coal Ash Disposal Regulations Providing Flexibilities for States and $30M in Annual Cost Savings - Preview

CCR Plan –

Hey guys, Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 Please let me know if you have any questions!

Molly

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Visit the EPA's Newsroom

Like
Tweet
Share
Forward

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue Northwest
Washington, D.C. 20004

Unsubscribe

Dear OLEM Colleagues,

For this edition, I'm devoting this column to introducing you to new people, Peter Wright and Steven Cook. Many OLEM members have already had a chance to meet Peter and Steven, and this is an opportunity to share more about their background.

Peter Wright joined us in July, and is our nominee to be Assistant Administrator. The President submitted his nomination to the Senate in March, and Peter's Environment and Public Works Committee hearing was in June. The Committee voted affirmatively on Peter's nomination on August 1, so Peter's nomination is now forwarded to the full Senate for his final confirmation vote. In the meantime, he joins us as Special Counsel to the Administrator.

Peter comes to us from the Dow Chemical Company, in Midland, Michigan, where he worked since 1999. At Dow, Peter worked on a broad array of environmental matters, especially including Superfund and other land remediation programs. He also provided legal counsel on mergers and acquisitions, and major real estate transactions. Before joining Dow, Peter worked for Monsanto in St. Louis, as well as two major law firms, in St. Louis and Indianapolis, respectively.

Peter has been a leader in American Bar Association work, particularly the Section of Environment, Energy and Resources, and he volunteered as well in the work of the RCRA Corrective Action Project. He's a native of southern California, and earned his undergraduate degree from Wabash College in Indiana, and his law degree from Indiana University.

Steven Cook joined OLEM as Deputy Assistant Administrator in February, joining us from LyondellBasell, a Houston-based chemical company where Steven had worked since 1995. At LyondellBasell, Steven advised on a wide range of environmental issues, including regulatory counseling, enforcement, indemnity recovery and waste site litigation.

Before joining LyondellBasell, Steven had previously worked at three major law firms, two in Houston and one in Minneapolis. Periodically, he also served as an Adjunct Professor at the University of Houston Law Center in Clean Air Act courses as well as a course on Environmental Law & Bankruptcy.

Over the years, Steven has lived in nine different states. He earned his undergraduate degree as well as a law degree from Brigham Young University in Utah, and has an M.B.A. from the University of Texas in Austin.

I hope you'll join me welcoming Peter and Steven, and getting to know them better.

Message

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 7/18/2018 9:57:51 PM
To: Block, Molly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=60d0c681a16441a0b4fa16aa2dd4b9c5-Block, Moll]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Chancellor, Erin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ae6aeabeca754643bdb01c9f5b653ca6-Chancellor,]; Falvo, Nicholas [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=424ac90ea7d8494a93209d14d37f2946-Falvo, Nich]
Subject: RE: FOR APPROVAL: RE: R5 draft press release to announce $26.6 million RCRA cleanup at DuPont in E. Chicago -TBA 8AM, Fri., 7/20

No comments from me; thanks.

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Block, Molly
Sent: Wednesday, July 18, 2018 5:08 PM
To: Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Chancellor, Erin <chancellor.erin@epa.gov>; Falvo, Nicholas <falvo.nicholas@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Subject: FOR APPROVAL: RE: R5 draft press release to announce $26.6 million RCRA cleanup at DuPont in E. Chicago - TBA 8AM, Fri., 7/20

Please review the press release attached from Region 5 on the cleanup for the DuPont/Chemours RCRA site in East Chicago. Please let me know if you have any questions or edits. Thank you!

Note from the Region: **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Message

From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 7/11/2018 8:29:25 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: FW: FUDS Background info
Attachments: FUDS 06052018_v1.docx; TAB D - ESOH Pilot Program for FUDS Cleanups.docx

Gentlemen --

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP) FUDS from what I understand are pre-BRAC sites.

Ex. 5 Deliberative Process (DP)

Much appreciated. We would like to schedule a briefing with Andrew when you are ready to look at and talk through some options Ex. 5 Deliberative Process (DP)

Thanks

Ryan.

-----Original Message-----
From: Niemeyer, Lucian L II HON OSD OUSD ATL (US) [mailto:lucian.l.niemeyer.civ@mail.mil]
Sent: Tuesday, July 10, 2018 4:54 PM
To: Wheeler, Andrew <wheeler.andrew@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: FUDS Background info

Andrew: Thanks for the call and follow-up. Here is some background information for your staff. Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

USACE website with overview https://www.usace.army.mil/Missions/Environmental/Formerly-Used-Defense-Sites/

I wrote an article on the topic last year. https://www.cato.org/publications/commentary/turning-former-military-bases-economic-development

Ex. 5 Deliberative Process (DP)

Congratulations again.

Respectfully,

Lucian Niemeyer, ASD (EIE)
Phone: (703) 697-8080
Cell: (571) 309-8219

Message

From: Bennett, Tate [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1FA92542F7CA4D01973B18B2F11B9141-BENNETT, EL]
Sent: 8/9/2018 4:58:21 PM
To: Indermark, Michele [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cf63a0730b3e4d89aa3b8ce9a5d9eab2-Indermark,]; Cheatham, Reggie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c04c7b4fbf4d45108592282991c719cb-RCheatha]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Gioffre, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31f5c89e985847ecaeec14283e8fc914-PFLEMI02]; Jacob, Sicy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6444719f31d44818afb6bdd6369735bc-sjacob]; Jennings, Kim [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7eeab2bece9b461e949b23d538b7964a-kjenning]
Subject: RE: CERCLA Reporting Rule

No problem! Thank you!

From: Indermark, Michele
Sent: Thursday, August 9, 2018 11:59 AM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Subject: RE: CERCLA Reporting Rule

Tate – apologies for the multiple versions, but this version is slightly updated to include the events of this past week. Please let us know if you need anything else.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Indermark, Michele
Sent: Thursday, August 09, 2018 8:46 AM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick

<Hilosky.Nick@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>
Subject: RE: CERCLA Reporting Rule

Hi All,

I'm providing the final paper we submitted for Andrew Wheeler's hearing on 1 Aug. We also developed a Q/A document that covers RMP, hurricane preparedness and CERCLA/EPCRA FARM Act and I've attached it for your use. Please let us know if you need anything else.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Cheatham, Reggie
Sent: Thursday, August 09, 2018 8:39 AM
To: Bennett, Tate <Bennett.Tate@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: RE: CERCLA Reporting Rule

Folks….please disregard the attachments I sent….we discovered a version control problem…Michele is sending the final versions.

Thanks

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202.564.8003 (O); 202.689.9400 (M);
cheatham.reggie@epa.gov
Doris Williams, Executive Assistant
202.564.0053

From: Cheatham, Reggie
Sent: Thursday, August 09, 2018 8:26 AM
To: Bennett, Tate <Bennett.Tate@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: RE: CERCLA Reporting Rule

Tate

Attached is the CERCLA/EPCRA white paper we did for the Administrator's SEPW hearing. This has been cleared by OGC.

Additionally, here is the Q and A we drafted, in case this comes up:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Let us know if you need any additional information.

Thanks

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202.564.8003 (O); 202.689.9400 (M);
cheatham.reggie@epa.gov
Doris Williams, Executive Assistant
202.564.0053

From: Bennett, Tate
Sent: Thursday, August 09, 2018 7:45 AM
To: Wright, Peter <wright.peter@epa.gov>
Cc: Cheatham, Reggie <cheatham.reggie@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: Re: CERCLA Reporting Rule

Great. Can you pass it along?

On Aug 9, 2018, at 7:36 AM, Wright, Peter <wright.peter@epa.gov> wrote:

> All
>
> We prepared a summary on this topic for the Administrator's Senate hearing briefing book.
>
> Peter
>
> Sent from my iPhone
>
> On Aug 8, 2018, at 8:56 PM, Cheatham, Reggie <cheatham.reggie@epa.gov> wrote:
>
>> Got it Tate
>>
>> Thanks
>>
>> Reggie Cheatham, Director
>> Office of Emergency Management, USEPA
>> 202/564-8003(o)/202/689-9400
>> Doris Williams, Executive Assistant
>> 202/564-0053
>>
>> On Aug 8, 2018, at 8:54 PM, Bennett, Tate <Bennett.Tate@epa.gov> wrote:

Thank you. No need to recreate the wheel, just something similar to what was covered in our official press release.

On Aug 8, 2018, at 8:53 PM, Cheatham, Reggie <cheatham.reggie@epa.gov> wrote:

> We will get talkers to Tate
>
> Thanks
>
> Reggie Cheatham, Director
> Office of Emergency Management, USEPA
> 202/564-8003(o)/202/689-9400
> Doris Williams, Executive Assistant
> 202/564-0053
>
> On Aug 8, 2018, at 6:53 PM, Cook, Steven <cook.steven@epa.gov> wrote:
>
>> Can someone help out here since I am wandering the left coast ?
>>
>> Sent from my iPhone
>>
>> Begin forwarded message:
>>
>>> **From:** "Bennett, Tate" <Bennett.Tate@epa.gov>
>>> **Date:** August 8, 2018 at 1:21:44 PM PDT
>>> **To:** "Cook, Steven" <cook.steven@epa.gov>
>>> **Cc:** "Dickerson, Aaron" <dickerson.aaron@epa.gov>, "Lovell, Will (William)" <lovell.william@epa.gov>
>>> **Subject: CERCLA Reporting Rule**
>>>
>>> Hi Steve! Do you have any FARM Act Talking Points we can include in the Admin's binder for Iowa? I believe this may come up Monday as I just learned the cattlemen will attend. He is leaving tomorrow for the weekend, so I would need the talkers

by noon. Apologies for the late notice! Worst case, the press release may work....copying Will too in case he has anything.

Elizabeth Tate Bennett
Associate Administrator
for Public Engagement
& Environmental
Education
Office of the
Administrator
U.S. Environmental
Protection Agency
(202) 564-1460
Bennett.Tate@epa.gov

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/26/2018 9:40:13 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]
Subject: FW: Materials for 9:00 Wheeler Pre-Brief
Attachments:

Deliberative Process / Ex. 5

Importance: High
Flag: Follow up

Resending email – please disregard the email chain in the other one. The note to Jim in the email chain is not accurate any more. This agenda is what OLEM will use tomorrow morning. Thanks.

Jackie

From: Harwood, Jackie
Sent: Thursday, July 26, 2018 5:32 PM
To: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Woolford, James <Woolford.James@epa.gov>
Cc: Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: Materials for 9:00 Wheeler Pre-Brief
Importance: High

Hi All,

Attached are materials for your 9:00 briefing tomorrow. They include:

- An agenda for the meeting.
- OCIR fact sheets on OLEM topics you'll be discussing at the briefing.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

- Additional OLEM fact sheets that went into Wheeler's briefing books.

Deliberative Process / Ex. 5

- OLEM's Qs and As for the briefing
- List of Senate EPW members

Just as a reminder – the Administrator would like the first ¾ of the prep time to be dedicated to program staff briefing him on the issues. The final ¼ of the slot will be a Q&A.

Please let me know if you have any questions or need anything else.

Thanks.

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Harwood, Jackie
Sent: Thursday, July 26, 2018 3:33 PM
To: Woolford, James <Woolford.James@epa.gov>; Gartner, Lois <Gartner.Lois@epa.gov>
Subject: IMPORTANT UPDATE: Tomorrow's Hearing Prep
Importance: High

Hi Jim,

1. Attached are all the OCIR fact sheets – I haven't had time to check to see if they incorporated all our changes, but I'll do that soon.

2. Unfortunately, **I just found out from OCIR this afternoon that they have expanded the topics for the briefing to include some of our other fact sheets**. OCIR's list of topics is below with the new ones highlighted in yellow. I'm going to check in with Barry on how he wants to handle this but I'm thinking you would handle the additional SF topics (see below in red). Does that work for you?

Office of Land and Emergency Management (OLEM)

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Potential Questions .....OLEM

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Woolford, James
Sent: Thursday, July 26, 2018 3:05 PM
To: Gartner, Lois <Gartner.Lois@epa.gov>
Cc: Harwood, Jackie <Harwood.Jackie@epa.gov>; OLEM OSRTI IO <OLEM_OSRTI_IO@epa.gov>
Subject: Re: Tomorrow's Hearing Prep

Just need the final material that went to Andrew.

Sent from my iPhone

On Jul 26, 2018, at 12:48 PM, Gartner, Lois <Gartner.Lois@epa.gov> wrote:

> What can we do to help prepare for this meeting?
>
> *Lois Haas Gartner*
> Special Assistant
> Office of Superfund Remediation
> and Technology Innovation
> U.S. Environmental Protection Agency

703.603.8711 (desk)
Cell number/Ex. 6

CHEMICAL FACILITY SAFETY - RISK MANAGEMENT PLAN (RMP)

BACKGROUND:

- The Clean Air Act (112(r)) requires that facilities handling more than a threshold quantity of certain extremely hazardous chemical substances implement a risk management program. EPA has identified approximately 12,500 RMP facilities.
- A facility RMP program contains three elements: a hazard assessment, a prevention program, and an emergency response program which are described and documented in their RMP submitted to EPA.
- EPA published the RMP Amendments rule on January 13, 2017, to be effective on March 14, 2017. This rule modified and added provisions to the original rule regarding the prevention of accidental releases, emergency response preparedness, and public sharing of information.
- EPA received three Petitions for Reconsideration from impacted industry and a group of states raising concerns that the final rule created security risks and is unduly burdensome. EPA agreed to conduct a reconsideration proceeding, and issued a final rule extending the effective date of the RMP Amendments rule to February 19, 2019.
- EPA published a Notice of Proposed Rulemaking to reconsider the RMP Amendments, with public comments accepted through August 23, 2018. Ex. 5 Deliberative Process (DP)
- Ex. 5 Deliberative Process (DP)

KEY POINTS:

- Ex. 5 Deliberative Process (DP)
- Ex. 5 Deliberative Process (DP)
- Ex. 5 Deliberative Process (DP)

(over for Talking Points)

ED_002087_00000280-00001

TALKING POINTS:

-
-
-
-

Ex. 5 Deliberative Process (DP)

ED_002087_00000280-00002

BROWNFIELDS PROGRAM

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.

KEY POINTS:

- Since 1995, grants awarded by the program have led to over 76,000 acres of idle land made ready for productive use, and leveraged over 138,000 jobs and $26.4 billion.
- 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.

TALKING POINTS:

- Ex. 5 Deliberative Process (DP)

ED_002087_00000283-00001

OLEM Pre-Brief for Acting Administrator

AGENDA

7/27/18

- Coal Ash – Steven
- CERCLA/EPCRA Reporting & Recent Vacatur Rule – Steven
- Brownfields – Peter
- Risk Management Plan – Peter
- Lead Exposure at Superfund Sites – Jim Woolford
- Superfund Sites – Jim Woolford

Deliberative Process / Ex. 5

NOTE: Peter will not participate in the following site discussions:

Deliberative Process / Ex. 5

*** *Administrator's Emphasis List*

- Potential Questions

OLEM Pre-Brief for Acting Administrator

AGENDA

7/27/18

- Coal Ash – Steven
- CERCLA/EPCRA Reporting & Recent Vacatur Rule – Steven
- Brownfields – Peter
- Risk Management Plan – Peter
- Lead Exposure at Superfund Sites – Jim Woolford
- Superfund Sites – Jim Woolford

Deliberative Process / Ex. 5

NOTE: Peter will not participate in the following site discussions:

Deliberative Process / Ex. 5

**Administrator's Emphasis List*

- Potential Questions

CENTERDALE MANOR SUPERFUND SITE- RI

BACKGROUND:

- The Centredale Manor Superfund site consists of a nine-acre parcel located along the Woonasquatucket River in North Providence, RI, as well as a 1.5-mile stretch of river, including two ponds, riverbanks on residential properties, and a large forested wetland.
- Site soils, sediments, fish/biota, and groundwater are contaminated with high levels of dioxin and other contaminants.
- The site was added to the NPL in 2000 after dioxin was discovered in fish. Several short-term cleanups to control immediate risks have been performed by EPA and the state.
- Since 2011, EPA has been in litigation with Black & Decker.
- In September 2012, EPA issued its cleanup decision in its Record of Decision.
- In 2014, EPA issued a unilateral administrative order to Black & Decker directing it to conduct the cleanup.
- In September 2015, the District Court for the District of Rhode Island found Black & Decker jointly and severally liable as a past operator.
- In August 2017, the Court issued a decision in the second phase of litigation, upholding EPA's remedy in large part and stayed enforcement of EPA's unilateral order until resolution of these matters.
- On July 9, 2018, the United States lodged a Consent Decree with the U.S. District Court for the District of Rhode Island (Smith, J.) resolving our CERCLA enforcement against Emhart at this site. The State of Rhode Island is also a party to the decree.

KEY POINTS:

- The State concurred with the Record of Decision when it was issued in 2012.
- In December 2017, EPA included the Centredale Manor Site on the Administrator's Emphasis List because of the enforcement impasse.
- The settlement resolves litigation between Emhart and Black & Decker and the United States, including the Court's recent decision requiring EPA to reconsider certain aspects of the remedy.
- We are currently in the 30-day comment period, which ends on August 13. Following the comment period, the United States will respond to comments and move to enter the Consent Decree with the Court.
- The cleanup is estimated to cost approximately $100 million.

Talking Points—

- This is a great outcome for EPA, the State of Rhode Island, and for the communities of North Providence and Johnston; all are supportive of the outcome.
- This outcome, in which the responsible party reimburses the government for response costs and performs the cleanup at the site, is consistent with CERCLA's polluter-pays policy.
- This settlement allows the cleanup, which has been delayed for nearly six years due to litigation, to begin, and will be a step toward the State's goal of a fishable and swimmable Woonasquatucket River.

ED_002087_00000289-00001

LOWER PASSAIC RIVER SUPERFUND SITE-NJ

BACKGROUND:

- The river is contaminated with dioxin, polychlorinated biphenyls (PCBs), pesticides, mercury and other contaminants. The sediment contamination has closed fisheries, hampered local waterfront development plans, and increased the Port of NY and NJ'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.

- In March 2016, EPA issued a record of decision (ROD) for an estimated $1.38 billion cleanup plan to address the lower 8.3 miles. Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

KEY POINTS:

-
- Ex. 5 Deliberative Process (DP)

TALKING POINTS:

-
- Ex. 5 Deliberative Process (DP)
-

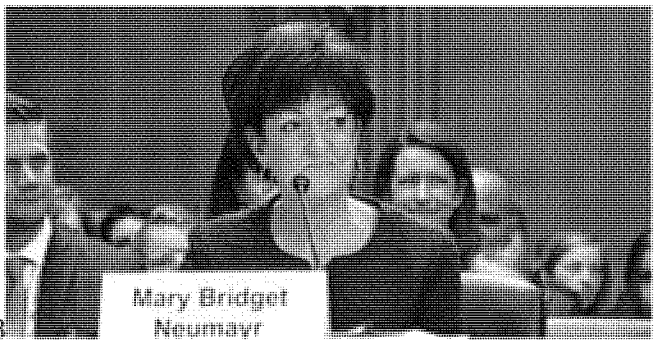
ED_002087_00000290-00001

To: Wright, Peter[wright.peter@epa.gov]
From: Brent Fewell[brent.fewell@earthandwatergroup.com]
Sent: Wed 8/1/2018 5:52:50 PM (UTC)
Subject: Final congrats!
ATT00001.txt

NOMINATIONS

Trump's CEQ, EPA picks squeak through split committee

Kevin Bogardus, E&E News reporter



Published: Wednesday, August 1, 2018

Mary Neumayr, President Trump's nominee to lead the Council on Environmental Quality, during her confirmation hearing. Environment and Public Works Committee

The Senate Environment and Public Works Committee approved on party-line votes today President Trump's nominees to lead the Council on Environmental Quality and two top EPA posts.

"These nominees are well-qualified and will bring a wealth of experience to their jobs," Chairman John Barrasso (R-Wyo.) said.

The committee voted 11-10 to advance Mary Neumayr's nomination for CEQ chairwoman. Currently CEQ's chief of staff, she's a former congressional aide who also worked in the George W. Bush administration's Department of Energy and in the Justice Department's Environment and Natural Resources Division.

Trump's first pick for CEQ, Kathleen Hartnett White, withdrew from consideration after running into heavy opposition in the Senate.

Said Sen. Tom Carper of Delaware, the committee's top Democrat: "Compared to the last Trump CEQ chair nominee, Ms. Neumayr is a welcomed improvement."

But he said he was "troubled" by her written responses to senators' questions for the record, including on the White House's plans to change to how the National Environmental Policy Act works and whether they will prioritize environmental protection and if there will be a robust public comment process. He voted against Neumayr.

The committee also approved EPA nominees Peter Wright and William "Chad" McIntosh, both on 11-10 votes.

A former attorney for the chemical giant DowDupont Inc., Wright is nominated to lead EPA's Office of Land and Emergency Management.

The company is responsible for several toxic waste sites managed by EPA's Superfund program, which Wright would oversee. He has agreed to recuse himself from working on any sites linked to his former employer for two years, as well as permanently recuse himself from any sites he worked on directly before joining EPA.

Trump nominated McIntosh, a retired Ford Motor Co. executive, to be head of EPA's Office of International and Tribal Affairs.

Both Wright and McIntosh are already working at EPA as special counsel to the administrator. Their employment at the agency ahead of their confirmations has drawn protests from Democrats, who argue the arrangement undermines the Senate's constitutional "advice and consent" role (*Greenwire*, July 23).
Carper also expressed worries over the EPA nominees, including whether Wright was following his recusal since it was contingent upon his Senate confirmation. He also noted how Wright and other nominees' answers differed between what they said in their confirmation hearing and in written responses to senators' questions.

Sen. Ed Markey (D-Mass.) also voiced his opposition to Wright, given his work for a giant chemical company would conflict with his job at EPA.

"It would be a clear violation of the public trust," he said. "Mr. Wright is the classic fox guarding the henhouse."

The panel also approved, 15-6, former Rep. John Fleming (R-La.) for an economic development post at the Commerce Department.

In addition, the committee passed legislation on voice vote to rename two courthouses and six resolutions related to the General Services Administration.

Once the panel completed its markup, it moved on to host a hearing with acting EPA Administrator Andrew Wheeler — his first on Capitol Hill since taking charge of the agency last month (*see related story*).
Reporter Niina Heikkinen contributed.

Brent Fewell, Esq. | Earth & Water Law Group
1455 Pennsylvania Ave., NW, Suite 400, Washington, DC 20004
(202) 280-6362 (o) | (202) 664-9297 (c) | www.earthandwatergroup.com

This e-mail communication (including any attachments) may contain legally privileged and confidential information intended solely for the use of the intended recipient. If you are not the intended recipient, you should immediately stop reading this message and delete it from your system. Any unauthorized reading, distribution, copying or other use of this communication (or its attachments) is strictly prohibited.

Message

From: Block, Molly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=60D0C681A16441A0B4FA16AA2DD4B9C5-BLOCK, MOLL]
Sent: 7/18/2018 9:07:56 PM
To: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Chancellor, Erin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ae6aeabeca754643bdb01c9f5b653ca6-Chancellor,]; Falvo, Nicholas [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=424ac90ea7d8494a93209d14d37f2946-Falvo, Nich]; Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=febaf0d56aab43f8a9174b18218c1182-Fotouhi, Da]
Subject: FOR APPROVAL: RE: R5 draft press release to announce $26.6 million RCRA cleanup at DuPont in E. Chicago -TBA 8AM, Fri., 7/20
Attachments: DUPONT RELEASE 7-18.approvedDRAFT mb.docx

Please review the press release attached from Region 5 on the cleanup for the DuPont/Chemours RCRA site in East Chicago. Please let me know if you have any questions or edits. Thank you!

Note from the Region: Our press release needs to go out no later than 8 AM on Friday Ex. 5 Deliberative Process (DP)

Deliberative Process / Ex. 5

OLEM Weekly Report, August 23, 2018

Hot Topics

1. **Hurricane Lane, Hawaiian Islands.** Deliberative Process / Ex. 5

   Deliberative Process / Ex. 5

2. **Coal Combustion Residuals (CCR)**. See below.

3. **Clean Air Act 112(r) Risk Management Program (RMP) Reconsideration NPRM.** The Notice of Data Availability (NODA) was published in the FR on July 24. The public comment period for the NPRM (extended 30 days from the date of FR publication of the NODA) is now until August 23.

4. **RMP Delay Rule.** On August 17, the D.C. Circuit vacated the RMP rule that delayed the effective date of the January 2017 RMP final rule to February 19, 2019. Deliberative Process / Ex. 5

   Deliberative Process / Ex. 5

5. **Ongoing major Superfund NPL sites** Deliberative Process / Ex. 5

   Deliberative Process / Ex. 5

6. **CERCLA 108(b) Financial Assurance** Deliberative Process / Ex. 5

7. **PFAS.**

   Deliberative Process / Ex. 5

8. **e-Manifest**.

Upcoming Major Decisions and Events

1. **Environmental Council of States (ECOS) Meeting.** Senior OLEM managers will participate in the ECOS meeting in Stowe, VT on August 27 – 29.
2. Deliberative Process / Ex. 5
3. Deliberative Process / Ex. 5
4. **Hazardous Substances Spill Prevention Proposed Rule.** This rule package was published in the FR and comments are due by August 24.
5. **Coal Combustion Residuals**.
   a. The proposed rule was published in the FR on July 30.
   b. On August 21, the D.C. Circuit granted part of EPA's remand and denied other parts of EPA's remand to provisions of the 2015 final rule. The Court also vacated certain provisions petitioned by environmental groups. Deliberative Process / Ex. 5

   Deliberative Process / Ex. 5

   c.

   d. Deliberative Process / Ex. 5

Message

From: Woolford, James [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9A70358E7660435CBE6AFA87B7B9B71B-WOOLFORD, JAMES]
Sent: 7/26/2018 9:39:51 PM
To: Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]
Subject: Re: Materials for 9:00 Wheeler Pre-Brief

Thanks.

Not sure why Rankin-Hinds Pearl River would be OLEM. Looks like a NEPA item which is the office of federal activities.

Sent from my iPhone

On Jul 26, 2018, at 5:32 PM, Harwood, Jackie <Harwood.Jackie@epa.gov> wrote:

> Hi All,
>
> Attached are materials for your 9:00 briefing tomorrow. They include:
>
> - An agenda for the meeting.
> - OCIR fact sheets on OLEM topics you'll be discussing at the briefing.
> - <!--[if !supportLists]--><!--[endif]-->Coal Ash – Steven
> - <!--[if !supportLists]--><!--[endif]-->CERCLA/EPCRA Reporting & Recent Vacatur Rule – Steven
> - <!--[if !supportLists]--><!--[endif]-->Brownfields – Peter
> - <!--[if !supportLists]--><!--[endif]-->Risk Management Plan – Peter
> - <!--[if !supportLists]--><!--[endif]-->Lead Exposure at Superfund Sites – Jim Woolford
> - <!--[if !supportLists]--><!--[endif]-->Superfund Sites – Jim Woolford
> - Additional OLEM fact sheets that went into Wheeler's briefing books.
>
> **Deliberative Process / Ex. 5**
>
> - OLEM's Qs and As for the briefing
> - List of Senate EPW members

Just as a reminder – the Administrator would like the first ¾ of the prep time to be dedicated to program staff briefing him on the issues. The final ¼ of the slot will be a Q&A.

Please let me know if you have any questions or need anything else.

Thanks.

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Harwood, Jackie
Sent: Thursday, July 26, 2018 3:33 PM
To: Woolford, James <Woolford.James@epa.gov>; Gartner, Lois <Gartner.Lois@epa.gov>
Subject: IMPORTANT UPDATE: Tomorrow's Hearing Prep
Importance: High

Hi Jim,

1. Attached are all the OCIR fact sheets – I haven't had time to check to see if they incorporated all our changes, but I'll do that soon.

2. Unfortunately, **I just found out from OCIR this afternoon that they have expanded the topics for the briefing to include some of our other fact sheets**. OCIR's list of topics is below with the new ones highlighted in yellow. I'm going to check in with Barry on how he wants to handle this but I'm thinking you would handle the additional SF topics (see below in red). Does that work for you?

Office of Land and Emergency Management (OLEM)

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Potential Questions OLEM

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Woolford, James
Sent: Thursday, July 26, 2018 3:05 PM
To: Gartner, Lois <Gartner.Lois@epa.gov>
Cc: Harwood, Jackie <Harwood.Jackie@epa.gov>; OLEM OSRTI IO <OLEM_OSRTI_IO@epa.gov>
Subject: Re: Tomorrow's Hearing Prep

Just need the final material that went to Andrew.

Sent from my iPhone

On Jul 26, 2018, at 12:48 PM, Gartner, Lois <Gartner.Lois@epa.gov> wrote:

> What can we do to help prepare for this meeting?
>
> *Lois Haas Gartner*
> Special Assistant
> Office of Superfund Remediation
> and Technology Innovation
> U.S. Environmental Protection Agency
> 703.603.8711 (desk)
> Cell number/Ex. 6

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Konkus, John [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=555471B2BAA6419E8E141696F4577062-KONKUS, JOH]
Sent: 7/29/2018 12:27:45 AM
To: Grantham, Nancy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=12a3c2ed7158417fb0bb1b1b72a8cfb0-Grantham, Nancy]
CC: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: Re: New York Times follow-up query re: Peter Wright

Just read it. **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

On Jul 28, 2018, at 6:46 PM, Grantham, Nancy <Grantham.Nancy@epa.gov> wrote:

> Looking now
>
> Sent from my iPhone
>
> On Jul 28, 2018, at 6:31 PM, Wright, Peter <wright.peter@epa.gov> wrote:
>
> > John and Nancy
> >
> > The article is on line.
> >
> > Peter
> >
> > Sent from my iPhone
> >
> > On Jul 28, 2018, at 4:41 PM, Grantham, Nancy <Grantham.Nancy@epa.gov> wrote:
> >
> > > Agree thx ng
> > >
> > > Sent from my iPhone
> > >
> > > On Jul 28, 2018, at 3:58 PM, Wright, Peter <wright.peter@epa.gov> wrote:
> > >
> > > > John and Nancy
> > > >
> > > > I have not replied and do not plan on replying.
> > > >
> > > > Peter
> > > >
> > > > Sent from my iPhone
> > > >
> > > > Begin forwarded message:
> > > >
> > > > **From:** "Tabuchi, Hiroko" <hiroko.tabuchi@nytimes.com>
> > > > **Date:** July 28, 2018 at 5:55:32 AM

EDT
To: "Wright, Peter" <wright.peter@epa.gov>, Tryggvi Adalbjornsson <tryggvi.adalbjornsson@nytimes.com>
Subject: Re: New York Times follow-up query re: Peter Wright

Mr. Wright, we also wanted to run these background details past you. Let us know if you have any clarifications. Thanks, Hiroko

You grew up in Los Angeles, went to Wabash College in Indiana before graduating from law school at Indiana University.

On your Facebook page, you show an interest in mixology and in 2016 wrote about fashioning a drink in honor of your fellow environmental attorneys at the ABA.You described one of the ingredients, green Chartreuse: "The natural green color and the herbal, earthy flavor reminds one of the earth."

Hiroko and Tryggvi

Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 | hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi

On Fri, Jul 27, 2018 at 6:07 PM, Wright, Peter <wright.peter@epa.gov> wrote:

> Ms Tabuchi
>
> I would like to refer you to my colleagues John and Nancy who I know you
>
> have been working with on your story.

Regards,

Peter Wright

Sent from my iPhone

On Jul 27, 2018, at 6:01 PM, Tabuchi, Hiroko <hiroko.tabuchi@nytimes.com>

wrote:

Mr. Wright, I wasn't sure whether this email address was already working --

but I wanted to make sure you were aware of our questions to EPA regarding

your appointment to the assistant administrator job. Let us know if you had

any comments or are able to speak with us. Thanks, Hiroko

Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 |

hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi

---------- Forwarded message ----------

From: Tabuchi, Hiroko <hiroko.tabuchi@nytimes.com>

Date: Wed, Jul 25, 2018 at 1:51 PM

Subject: New York Times follow-up query re: Peter Wright

To: "Hewitt, James" <hewitt.james@epa.gov>

Cc: Tryggvi Adalbjornsson <tryggvi.adalbjornsson@nytimes.com>

Dear James,

Thanks again for getting me on the phone with Kevin Minoli regarding

Peter Wright's nomination to become E.P.A. assistant administrator.

Here are a series of facts and factual assertions and questions based

on further reporting on Mr. Wright.

Our overall assertion is that Mr. Wright helped lead a team at Dow

accused by regulators and Dow's own staff of submitting disputed data

on dioxin contamination, misrepresenting scientific evidence, and

delaying the cleanup at one of the country's most toxic sites.

We welcome responses to these questions individually and any clarifications or disagreements with factual assertions as well.

Finally, we welcome any on the record statement you want to make. We ask for responses by EOB tomorrow (Thursday).

Hiroko and Tryggvi

212-556-2642
(Hiroko direct line)

917-615-4180
(Hiroko cell)

FACTUAL ASSERTIONS:

++Mr. Wright was born in LA and spent 19 years at Dow. Before Dow, he was employed by Monsanto. In 2003, he was named to the Michigan Dioxin Initiative, a five-person executive team at Dow tasked with designing and negotiating the details of a cleanup of dioxin and other

contamination in the Tittawbassee and Saginaw watersheds. That river

network flows some 50 miles into Lake Huron. Mr. Wright was the only

lawyer on the team, and led its legal strategy.

++Mr. Wright has pointed to his work on the Michigan site as his

biggest accomplishment. In a 2017 email to the E.P.A.'s chief of staff

Ryan Jackson, Mr. Wright called it "the most controversial matter and

single most publicly successful matter that I have worked on at Dow."

++DowDuPont has at least partial responsibility at 171 locations

nationwide, or almost 14 percent of all sites on the E.P.A.'s list of

priority Superfund cleanups, according to E.P.A. data. QUESTION:

According to our analysis of the data, DowDuPont is linked to more NPL

Superfund sites than any other company. Is

this in line with E.P.A.'s analysis?

++In 2004 and 2005, state and federal officials twice discovered Dow contractors collecting soil samples along the Tittabawassee without telling regulators, which violated a Dow operating license. The unauthorized sampling not only prevented regulators from verifying Dow's results, state officials warned, but could enable Dow to identify hotspots in order to downplay them when designing cleanup plans. Mr. Wright was one of three Dow representatives on a May 2005 phone call with the E.P.A. and the M.D.E.Q. instructing the company to abide by the rules. Later, Michigan fined Dow $70,000 for the unauthorized sampling.

++Dow newsletters in 2004 to local residents stated that few health effects were tied to dioxin exposure, an

assertion the E.P.A. has

taken issue with. A study released by Dow also found that wild game —

deer, turkey, squirrel — had elevated dioxin levels but was safe to

eat. Michigan's health department disagreed and warned people not to

eat the meat.

++Mr. Wright separately authored an article in 2005 on dioxin risk in

the American Bar Association's Natural Resources and Environment,

describing dioxin as "highly toxic to a variety of animal species but

not to humans." This goes against the opinion of several dioxin

experts we spoke to.

++Mr. Wright also participated in discussions with researchers and

regulators about a Dow-funded study at the University of Michigan that

had found that living on dioxin-contaminated soil was not associated

with higher dioxin levels in the body. (E.P.A. officials at the time

believed the study "was initiated at the request of Dow in order to

downplay the risks of exposure.")

++Mr. Wright's team was criticized by E.P.A. in the mid-2000s for

stalling on the cleanup. ("E.P.A. is concerned with Dow's lack of

progress in addressing the significantly elevated levels of dioxin and

furan contamination in the Saginaw Bay watershed," a June 2007 E.P.A.

memo states.)

++In 2006, an independent lab testing company hired to validate Dow's

data on contamination rejected Dow's numbers. The company, Project

Enhancement Corporation, terminated its contract with Dow, citing the

chemical company's "major technical noncompliance," and a "breakdown"

in Dow's testing procedures, according

to the termination letter it

sent to Dow.

++Priscilla Denney, a senior environmental engineer on Mr. Wright's

team, warned Dow about PEC's concerns. (Dow had changed the way it

submitted its data while she was on maternity leave, making it

impossible for a third party to validate Dow's results, particularly

those that showed no levels of contamination.) She later claimed in a

whistleblower suit that her concerns about Dow's data were ignored and

that she had been demoted in retaliation. Mr. Wright, who was deposed

as part of the case, said he helped investigate Ms. Denney's concerns.

In the deposition, he also calls himself Dow's "dioxin lawyer."

++Dow submitted the data to the Michigan environmental regulator and

to the E.P.A. in February 2007 without mentioning PEC's concerns

++In May 2008, then E.P.A. Region 5 administrator Mary Gade was forced

to resign, after Dow appealed to officials in Washington, according to

emails that have since been made public. Ms. Gade told the Chicago

Tribune at the time that "there was no question" she had been pushed

out because of pressure from Dow.

QUESTIONS:

++Does E.P.A. believe that any of the above in any way affect the

suitability of Mr. Wright's appointment to the OLEM role, or his

ability to carry out his tasks on the job?

++Some environmental groups have criticized Mr. Wright's appointment,

saying Dow's exposure to Superfund sites

presents a major conflict of

interest. Is this a fair assertion?

++When does E.P.A. expect the Michigan dioxin cleanup to be complete?

++What role did Dow play in the appointment of Mr. Wright to the

E.P.A. assistant administrator role?

++Any other on-the-record statement regarding the above?

Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 |

hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi

Message

From: Konkus, John [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=555471B2BAA6419E8E141696F4577062-KONKUS, JOH]
Sent: 7/29/2018 12:10:43 AM
To: Grantham, Nancy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=12a3c2ed7158417fb0bb1b1b72a8cfb0-Grantham, Nancy]
CC: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: Re: New York Times follow-up query re: Peter Wright

Can you all send the link?

On Jul 28, 2018, at 6:46 PM, Grantham, Nancy <Grantham.Nancy@epa.gov> wrote:

> Looking now
>
> Sent from my iPhone
>
> On Jul 28, 2018, at 6:31 PM, Wright, Peter <wright.peter@epa.gov> wrote:
>
> > John and Nancy
> >
> > The article is on line.
> >
> > Peter
> >
> > Sent from my iPhone
> >
> > On Jul 28, 2018, at 4:41 PM, Grantham, Nancy <Grantham.Nancy@epa.gov> wrote:
> >
> > > Agree thx ng
> > >
> > > Sent from my iPhone
> > >
> > > On Jul 28, 2018, at 3:58 PM, Wright, Peter <wright.peter@epa.gov> wrote:
> > >
> > > > John and Nancy
> > > >
> > > > I have not replied and do not plan on replying.
> > > >
> > > > Peter
> > > >
> > > > Sent from my iPhone
> > > >
> > > > Begin forwarded message:
> > > >
> > > > > **From:** "Tabuchi, Hiroko" <hiroko.tabuchi@nytimes.com>
> > > > > **Date:** July 28, 2018 at 5:55:32 AM EDT

To: "Wright, Peter" <wright.peter@epa.gov>, Tryggvi Adalbjornsson <tryggvi.adalbjornsson@nytimes.com>
Subject: Re: New York Times follow-up query re: Peter Wright

Mr. Wright, we also wanted to run these background details past you. Let us know if you have any clarifications. Thanks, Hiroko

You grew up in Los Angeles, went to Wabash College in Indiana before graduating from law school at Indiana University.

On your Facebook page, you show an interest in mixology and in 2016 wrote about fashioning a drink in honor of your fellow environmental attorneys at the ABA.You described one of the ingredients, green Chartreuse: "The natural green color and the herbal, earthy flavor reminds one of the earth."

Hiroko and Tryggvi

Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 | hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi

On Fri, Jul 27, 2018 at 6:07 PM, Wright, Peter <wright.peter@epa.gov> wrote:

> Ms Tabuchi
>
> I would like to refer you to my colleagues John and Nancy who I know you
>
> have been working with on your story.

Regards,

Peter Wright

Sent from my iPhone

On Jul 27, 2018, at 6:01 PM, Tabuchi, Hiroko <hiroko.tabuchi@nytimes.com>

wrote:

Mr. Wright, I wasn't sure whether this email address was already working --

but I wanted to make sure you were aware of our questions to EPA regarding

your appointment to the assistant administrator job. Let us know if you had

any comments or are able to speak with us. Thanks, Hiroko

Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 |

hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi

---------- Forwarded message ----------

From: Tabuchi, Hiroko <hiroko.tabuchi@nytimes.com>

Date: Wed, Jul 25, 2018 at 1:51 PM

Subject: New York Times follow-up query re: Peter Wright

To: "Hewitt, James" <hewitt.james@epa.gov>

Cc: Tryggvi Adalbjornsson <tryggvi.adalbjornsson@nytimes.com>

Dear James,

Thanks again for getting me on the phone with Kevin Minoli regarding

Peter Wright's nomination to become E.P.A. assistant administrator.

Here are a series of facts and factual assertions and questions based

on further reporting on Mr. Wright.

Our overall assertion is that Mr. Wright helped lead a team at Dow

accused by regulators and Dow's own staff of submitting disputed data

on dioxin contamination, misrepresenting scientific evidence, and

delaying the cleanup at one of the country's most toxic sites.

We welcome responses to these questions individually and any clarifications or disagreements with factual assertions as well.

Finally, we welcome any on the record statement you want to make. We ask for responses by EOB tomorrow (Thursday).

Hiroko and Tryggvi

212-556-2642
(Hiroko direct line)

917-615-4180
(Hiroko cell)

FACTUAL ASSERTIONS:

++Mr. Wright was born in LA and spent 19 years at Dow. Before Dow, he was employed by Monsanto. In 2003, he was named to the Michigan Dioxin Initiative, a five-person executive team at Dow tasked with designing and negotiating the details of a cleanup of dioxin and other

contamination in the Tittawbassee and Saginaw watersheds. That river

network flows some 50 miles into Lake Huron. Mr. Wright was the only

lawyer on the team, and led its legal strategy.

++Mr. Wright has pointed to his work on the Michigan site as his

biggest accomplishment. In a 2017 email to the E.P.A.'s chief of staff

Ryan Jackson, Mr. Wright called it "the most controversial matter and

single most publicly successful matter that I have worked on at Dow."

++DowDuPont has at least partial responsibility at 171 locations

nationwide, or almost 14 percent of all sites on the E.P.A.'s list of

priority Superfund cleanups, according to E.P.A. data. QUESTION:

According to our analysis of the data, DowDuPont is linked to more NPL

Superfund sites than any other company. Is

this in line with E.P.A.'s analysis?

++In 2004 and 2005, state and federal officials twice discovered Dow contractors collecting soil samples along the Tittabawassee without telling regulators, which violated a Dow operating license. The unauthorized sampling not only prevented regulators from verifying Dow's results, state officials warned, but could enable Dow to identify hotspots in order to downplay them when designing cleanup plans. Mr. Wright was one of three Dow representatives on a May 2005 phone call with the E.P.A. and the M.D.E.Q. instructing the company to abide by the rules. Later, Michigan fined Dow $70,000 for the unauthorized sampling.

++Dow newsletters in 2004 to local residents stated that few health effects were tied to dioxin exposure, an

assertion the E.P.A. has

taken issue with. A study released by Dow also found that wild game —

deer, turkey, squirrel — had elevated dioxin levels but was safe to

eat. Michigan's health department disagreed and warned people not to

eat the meat.

++Mr. Wright separately authored an article in 2005 on dioxin risk in

the American Bar Association's Natural Resources and Environment,

describing dioxin as "highly toxic to a variety of animal species but

not to humans." This goes against the opinion of several dioxin

experts we spoke to.

++Mr. Wright also participated in discussions with researchers and

regulators about a Dow-funded study at the University of Michigan that

had found that living on dioxin-contaminated soil was not associated

with higher dioxin levels in the body. (E.P.A. officials at the time

believed the study "was initiated at the request of Dow in order to

downplay the risks of exposure.")

++Mr. Wright's team was criticized by E.P.A. in the mid-2000s for

stalling on the cleanup. ("E.P.A. is concerned with Dow's lack of

progress in addressing the significantly elevated levels of dioxin and

furan contamination in the Saginaw Bay watershed," a June 2007 E.P.A.

memo states.)

++In 2006, an independent lab testing company hired to validate Dow's

data on contamination rejected Dow's numbers. The company, Project

Enhancement Corporation, terminated its contract with Dow, citing the

chemical company's "major technical noncompliance," and a "breakdown"

in Dow's testing procedures, according

to the termination letter it

sent to Dow.

++Priscilla Denney, a senior environmental engineer on Mr. Wright's

team, warned Dow about PEC's concerns. (Dow had changed the way it

submitted its data while she was on maternity leave, making it

impossible for a third party to validate Dow's results, particularly

those that showed no levels of contamination.) She later claimed in a

whistleblower suit that her concerns about Dow's data were ignored and

that she had been demoted in retaliation. Mr. Wright, who was deposed

as part of the case, said he helped investigate Ms. Denney's concerns.

In the deposition, he also calls himself Dow's "dioxin lawyer."

++Dow submitted the data to the Michigan environmental regulator and

to the E.P.A. in February 2007 without mentioning PEC's concerns

++In May 2008, then E.P.A. Region 5 administrator Mary Gade was forced to resign, after Dow appealed to officials in Washington, according to emails that have since been made public. Ms. Gade told the Chicago Tribune at the time that "there was no question" she had been pushed out because of pressure from Dow.

QUESTIONS:

++Does E.P.A. believe that any of the above in any way affect the suitability of Mr. Wright's appointment to the OLEM role, or his ability to carry out his tasks on the job?

++Some environmental groups have criticized Mr. Wright's appointment, saying Dow's exposure to Superfund sites

presents a major conflict of

interest. Is this a fair assertion?

++When does E.P.A. expect the Michigan dioxin cleanup to be complete?

++What role did Dow play in the appointment of Mr. Wright to the

E.P.A. assistant administrator role?

++Any other on-the-record statement regarding the above?

Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 |

hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi

Message

From: Grantham, Nancy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=12A3C2ED7158417FB0BB1B1B72A8CFB0-GRANTHAM, NANCY]
Sent: 7/18/2018 8:00:18 PM
To: Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]; Taylor, Trish [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2bf5f5220f7144d380741509abaeecd7-Ptaylo03]; Thomas, Latosha [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a405bd473fff4b80b3065d03d9b48eb9-LaThomas]
Subject: RE: OLEM Desk Statement on RMP Rule FR Notice

Thanks

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Harwood, Jackie
Sent: Wednesday, July 18, 2018 3:59 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Manges, Ellen <Manges.Ellen@epa.gov>; Taylor, Trish <Taylor.Trish@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>
Subject: OLEM Desk Statement on RMP Rule FR Notice

Hi Nancy,

Attached is OLEM's desk statement on the upcoming FR notice related to the RMP Rule. As I mentioned in my earlier email, the FR notice will state that EPA is:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Please let me know if you have any questions and/or comments on the statement.

Thanks.
Jackie

Deliberative Process / Ex. 5

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

OLEM Weekly Report, July 26, 2018

Hot Topics

1. **Coal Combustion Residuals (CCR).**

2. **Clean Air Act 112(r) Risk Management Program (RMP) Reconsideration NPRM.** The Notice of Data Availability (NODA) was published in the FR on July 24. The public comment period for the NPRM (extended 30 days from the date of FR publication of the NODA) is now August 23.

3. **Ongoing major Superfund NPL sites** Deliberative Process / Ex. 5
   Deliberative Process / Ex. 5

4. **CERCLA 108(b) Financial Assurance (next three sectors).**

5. **PFAS.**

   Deliberative Process / Ex. 5

6. **e-Manifest.**

Upcoming Major Decisions and Events

1. Deliberative Process / Ex. 5

2. **Brownfields Meeting.** Regional Brownfields Coordinators will meet in Potomac Yards on July 31 – August 1.

3. Deliberative Process / Ex. 5

4. Deliberative Process / Ex. 5

5. Deliberative Process / Ex. 5

6. **Hazardous Substances Spill Prevention Proposed Rule.** This rule package was published in the FR and comments are due by August 24, 2018.

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/18/2018 7:59:07 PM
To: Grantham, Nancy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=12a3c2ed7158417fb0bb1b1b72a8cfb0-Grantham, Nancy]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]; Taylor, Trish [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2bf5f5220f7144d380741509abaeecd7-Ptaylo03]; Thomas, Latosha [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a405bd473fff4b80b3065d03d9b48eb9-LaThomas]
Subject: OLEM Desk Statement on RMP Rule FR Notice
Attachments: OLEM DS Notice of Data Availability RMP Proposed Rule.7.18.18.docx

Hi Nancy,

Attached is OLEM's desk statement on the upcoming FR notice related to the RMP Rule. As I mentioned in my earlier email, the FR notice will state that EPA is:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Please let me know if you have any questions and/or comments on the statement.

Thanks.
Jackie

Deliberative Process / Ex. 5

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/26/2018 9:32:06 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Woolford, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9a70358e7660435cbe6afa87b7b9b71b-Woolford, James]
CC: Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]
Subject: Materials for 9:00 Wheeler Pre-Brief
Attachments:

Deliberative Process / Ex. 5

Importance: High

Hi All,

Attached are materials for your 9:00 briefing tomorrow. They include:

- An agenda for the meeting.
- OCIR fact sheets on OLEM topics you'll be discussing at the briefing.
  - Coal Ash – Steven
  - CERCLA/EPCRA Reporting & Recent Vacatur Rule – Steven
  - Brownfields – Peter
  - Risk Management Plan – Peter
  - Lead Exposure at Superfund Sites – Jim Woolford
  - Superfund Sites – Jim Woolford
- Additional OLEM fact sheets that went into Wheeler's briefing books.

Deliberative Process / Ex. 5

- OLEM's Qs and As for the briefing
- List of Senate EPW members

Just as a reminder – the Administrator would like the first ¾ of the prep time to be dedicated to program staff briefing him on the issues. The final ¼ of the slot will be a Q&A.

Please let me know if you have any questions or need anything else.

Thanks.

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Harwood, Jackie
Sent: Thursday, July 26, 2018 3:33 PM
To: Woolford, James <Woolford.James@epa.gov>; Gartner, Lois <Gartner.Lois@epa.gov>
Subject: IMPORTANT UPDATE: Tomorrow's Hearing Prep
Importance: High

Hi Jim,

1. Attached are all the OCIR fact sheets – I haven't had time to check to see if they incorporated all our changes, but I'll do that soon.

2. Unfortunately, **I just found out from OCIR this afternoon that they have expanded the topics for the briefing to include some of our other fact sheets**. OCIR's list of topics is below with the new ones highlighted in yellow. I'm going to check in with Barry on how he wants to handle this but I'm thinking you would handle the additional SF topics (see below in red). Does that work for you?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Potential Questions .....OLEM

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Woolford, James
Sent: Thursday, July 26, 2018 3:05 PM
To: Gartner, Lois <Gartner.Lois@epa.gov>
Cc: Harwood, Jackie <Harwood.Jackie@epa.gov>; OLEM OSRTI IO <OLEM_OSRTI_IO@epa.gov>
Subject: Re: Tomorrow's Hearing Prep

Just need the final material that went to Andrew.

Sent from my iPhone

On Jul 26, 2018, at 12:48 PM, Gartner, Lois <Gartner.Lois@epa.gov> wrote:

> What can we do to help prepare for this meeting?
>
> *Lois Haas Gartner*
> Special Assistant
> Office of Superfund Remediation
> and Technology Innovation
> U.S. Environmental Protection Agency
> 703.603.8711 (desk)
> Cell number/Ex. 6 (cell)

Message

From: Grantham, Nancy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=12A3C2ED7158417FB0BB1B1B72A8CFB0-GRANTHAM, NANCY]
Sent: 7/26/2018 9:09:19 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: RE: Additional Documents and Sites

Hi – John and I are hoping to talk with you – the number below does not seem to be you. thanks ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Cell phone/Ex. 6 **(mobile)**

From: Wright, Peter
Sent: Thursday, July 26, 2018 4:30 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: Re: Additional Documents and Sites

Nancy

My work cell is Cell phone/Ex. 6

Peter

Sent from my iPhone

On Jul 26, 2018, at 4:24 PM, Wright, Peter <wright.peter@epa.gov> wrote:

> Nancy
>
> As a follow up to this afternoon's meeting. I note that Professor Hites from Indiana is a member of the Science Advisory Board for the University of Michigan Dioxin Exposure Study.
>
> Peter
>
> https://sph.umich.edu/dioxin/scientific-advisory-board.html
>
> https://sph.umich.edu/dioxin/

Message

From: Averback, Jonathan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A22B8532C15649898118CF917497A43D-JAVERB02]
Sent: 8/22/2018 3:59:20 PM
To: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cheatham, Reggie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c04c7b4fbf4d45108592282991c719cb-RCheatha]; Clark, Becki [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a906e07f1cd143b9a3c2ddab813b8140-Clark, Becki]; Jennings, Kim [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7eeab2bece9b461e949b23d538b7964a-kjenning]; Darwin, Veronica [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc98aaf2f15a466baede3dab0e27a35e-Darwin, Ver]
CC: Belke, Jim [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9c32df961c274152b3ba2873b03ae555-jbelke]; Franklin, Kathy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9926db767e80460a918921c8d2f81576-kafrankl]; Haas, Craig [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d8247c88f58b416bb74fb1b7a25a88ff-Chaas]; Cogliano, Gerain [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4ba589a367194efd92030bfbe891a298-Cogliano, Gerain]; Doster, Brian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=322510375a3644b48f424addff4962da-BDOSTER]
Subject: summary of adverse decision in RMP Delay Rule case
Attachments: AAH Opinion Summary for OLEM.docx; ENV_DEFENSE-#850627-v1-admin_su_aah_opinion.PDF

Attached is a copy of the recent adverse decision in the RMP Delay Rule case as well as a summary prepared by OGC.

Jon Averback
Senior Attorney, EPA OGC
Air & Radiation Law Office
202-564-1064

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

Argued March 16, 2018 Decided August 17, 2018

No. 17-1155

AIR ALLIANCE HOUSTON, ET AL.,
PETITIONERS

v.

ENVIRONMENTAL PROTECTION AGENCY AND ANDREW WHEELER, ACTING ADMINISTRATOR, U.S. ENVIRONMENTAL PROTECTION AGENCY,
RESPONDENTS

UNITED STEEL, PAPER AND FORESTRY, RUBBER, MANUFACTURING, ENERGY, ALLIED INDUSTRIAL AND SERVICE WORKERS INTERNATIONAL UNION, AFL-CIO-CLC, ET AL.,
INTERVENORS

Consolidated with 17-1181

On Petitions for Review of a Final Rule of the
United States Environmental Protection Agency

Steven C. Wu, Deputy Solicitor General, Office of the Attorney General for the State of New York, argued the cause for State Petitioners. With him on the briefs were *Eric T. Schneiderman*, Attorney General, *Barbara D. Underwood*, Solicitor General, *David S. Frankel*, Assistant Solicitor General, *Michael J. Myers*, Assistant Attorney General, *Ellen F. Rosenblum*, Attorney General, Office of the Attorney General for the State of Oregon, *Paul Garrahan*, Attorney-in-Charge, *Peter F. Kilmartin*, Attorney General, Office of the Attorney General for the State of Rhode Island, *Gregory S. Schultz*, Special Assistant Attorney General, *Thomas J. Donovan, Jr.*, Attorney General, Office of the Attorney General for the State of Vermont, *Nicholas F. Persampieri*, Assistant Attorney General, *Lisa Madigan*, Attorney General, Office of the Attorney General for the State of Illinois, *Matthew J. Dunn*, *Gerald T. Karr*, *James P. Gignac*, Assistant Attorneys General, *Tom Miller*, Attorney General, Office of the Attorney General for the State of Iowa, *Jacob Larson*, Assistant Attorney General, *Janet T. Mills*, Attorney General, Office of the Attorney General for the State of Maine, *Gerald D. Reid*, Natural Resources Division Chief, *Robert W. Ferguson*, Attorney General, Office of the Attorney General for the State of Washington, *William R. Sherman*, Assistant Attorney General, *Brian E. Frosh*, Attorney General, Office of the Attorney General for the State of Maryland, *Steven M. Sullivan*, Solicitor General, *Maura Healey*, Attorney General, Office of the Attorney General for the Commonwealth of Massachusetts, *Christophe Courchesne*, Assistant Attorney General, *Hector H. Balderas*, Attorney General, Office of the Attorney General for the State of New Mexico, and *William Grantham*, Assistant Attorney General.

Emma C. Cheuse and *Susan J. Eckert* argued the cause for Community Petitioners and Petitioner-Intervenor. With them

on the briefs were *Gordon E. Sommers* and *Joseph M. Santarella, Jr.*

Scott L. Nelson and *Allison M. Zieve* were on the brief for *amici curiae* Former Regulatory Officials in support of petitioners and vacatur.

Richard L. Revesz, Bethany A. Davis Noll, Denise A. Grab, and *Jason A. Schwartz* were on the brief for *amicus curiae* Institute for Policy Integrity at New York University School of Law in support of petitioners.

Jonathan Brightbill, Deputy Assistant Attorney General, U.S. Department of Justice, argued the cause for respondents. With him on the brief were *Jeffrey H. Wood*, Acting Assistant Attorney General, *Stephanie J. Talbert*, Attorney, and *Brian Doster*, Assistant General Counsel, U.S. Environmental Protection Agency.

Shannon S. Broome argued the cause for intervenor Chemical Safety Advocacy Group, et al. With her on the brief were *C. Frederick Beckner III*, *Justin A. Savage*, *Ryan C. Morris*, *Kurt A. Johnson*, *Charles H. Knauss*, *Peter Tolsdorf*, *Steven P. Lehotsky*, *Michael B. Schon*, *Leslie A. Hulse*, and *Richard S. Moskowitz*.

Elizabeth B. Murrill, Solicitor General, Office of the Attorney General for the State of Louisiana, argued the cause for intervenor State of Louisiana. With her on the brief were *Jeff Landry*, Attorney General, *Michelle M. White*, Assistant Solicitor General, *Leslie Rutledge*, Attorney General, Office of the Attorney General for the State of Arkansas, *Lee Rudofsky*, Solicitor General, *Nicholas J. Bronni*, Deputy Solicitor General, *Derek Schmidt*, Attorney General, Office of the Attorney General for the State of Kansas, *Jeffrey A. Chanay*,

Chief Deputy Attorney General, *Bryan C. Clark*, Assistant Solicitor General, *Mark Brnovich*, Attorney General, Office of the Attorney General for the State of Arizona, *Dominic E. Draye*, Solicitor General, *Pamela Jo Bondi*, Attorney General, Office of the Attorney General for the State of Florida, *Edward M. Wenger*, Chief Deputy Solicitor General, *Mike Hunter*, Attorney General, Office of the Attorney General for the State of Oklahoma, *Mithun Maninghani*, Solicitor General, *Ken Paxton*, Attorney General, Office of the Attorney General of the State of Texas, *Scott A. Keller*, Solicitor General, *Patrick Morrisey*, Attorney General, Office of the Attorney General for the State of West Virginia, *Erica N. Peterson*, Deputy Solicitor General, *S. Chad Meredith*, Deputy General Counsel, Office of the Attorney General for the Commonwealth of Kentucky, *Alan Wilson*, Attorney General, Office of the Attorney General for the State of South Carolina, *James Emory Smith, Jr.*, Deputy Solicitor General, *Sean Reyes*, Attorney General, Office of the Attorney General for the State of Utah, *Tyler R. Green*, Solicitor General, *Brad Schimel*, Attorney General, Office of the Attorney General for the State of Wisconsin, and *Misha Tseytlin*, Solicitor General. *Paul A. Martin*, Chief Deputy Attorney General, Office of the Attorney General for the State of West Virginia, *Harry J. Vorhoff*, Assistant Attorney General, Office of the Attorney General for the State of Louisiana, and *Jonathan L. Williams* entered appearances.

Before: ROGERS, KAVANAUGH* and WILKINS, *Circuit Judges*.

Opinion for the court filed PER CURIAM.

---

* Judge Kavanaugh was a member of the panel at the time the case was argued but did not participate in this opinion.

PER CURIAM: This appeal presents the question whether the Environmental Protection Agency ("EPA") had authority under Sections 307(d)(7)(B) and 112(r)(7) of the Clean Air Act ("CAA"), 42 U.S.C. §§ 7607(d)(7)(B), 7412(r)(7), to delay the effective date of the Chemical Disaster Rule of January 13, 2017, for twenty months for the purpose of reconsideration, and, if so, whether it properly exercised that authority. We hold that where EPA has exercised its Section 7607(d)(7)(B) authority to delay the effectiveness of a final rule, it cannot avoid that statute's express limitations by invoking general rulemaking authority under a different statutory provision. EPA's action was arbitrary and capricious in any event. Accordingly, we vacate the Delay Rule of June 14, 2017.

I.

A.

In 1990, Congress amended the CAA, and addressed among other things multiple high-profile chemical accidents that harmed workers, local communities, and the environment. *See* 136 CONG. REC. S16,899, S16,926–27 (1990) (Conf. Rep.). Section 112(r) of the 1990 Amendments, "Prevention of Accidental Releases," provides that "[i]t shall be the objective of the regulations and programs authorized under this subsection to prevent the accidental release and to minimize the consequences of any such release of any [listed substance] or any other extremely hazardous substance." 42 U.S.C. § 7412(r)(1). "Accidental release" is defined as "an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source." *Id.* § 7412(r)(2)(A). Congress also established the Chemical Safety Board ("CSB") to investigate major accidental releases and issue reports to EPA "recommending measures to reduce the likelihood or the

consequences of accidental releases and proposing corrective steps to make chemical [industrial processes] as safe and free from risk of injury as is possible." *Id.* § 7412(r)(6)(C)(ii). "Whenever the [CSB] submits a recommendation with respect to accidental releases to [EPA], the Administrator shall respond to such recommendation . . . not later than 180 days after receipt," indicating whether EPA will "initiate a rulemaking or issue such orders as are necessary to implement the recommendation in full or in part, pursuant to any timetable contained in the recommendation." *Id.* § 7412(r)(6)(I). If the Administrator decides not to implement the CSB's recommendation in whole or part, "including any variation from the schedule contained in the recommendation," the Administrator must provide a statement "setting forth the reasons for such determination." *Id.*

Section 7412(r)(7) authorizes EPA to "promulgate release prevention, detection, and correction requirements which may include monitoring, record-keeping, reporting, training, vapor recovery, secondary containment, and other design, equipment, work practice, and operational requirements." *Id.* § 7412(r)(7)(A). "Regulations promulgated pursuant to this subparagraph shall have an effective date, as determined by the Administrator, assuring compliance as expeditiously as practicable." *Id.* That section also requires EPA to "promulgate reasonable regulations and appropriate guidance to provide, to the greatest extent practicable, for the prevention and detection of accidental releases of regulated substances and for response to such releases by the owners or operators of the sources of such releases," and requires that such regulations "be applicable to a stationary source 3 years after the date of promulgation." *Id.* § 7412(r)(7)(B)(i). These regulations must direct stationary sources to implement a Risk Management Plan ("RMP") to "detect and prevent or minimize accidental releases . . . and to provide a prompt emergency response to

any such releases in order to protect human health and the environment." *Id.* § 7412(r)(7)(B)(ii). The RMPs must be registered with the EPA and available to the public. *Id.* § 7412(r)(7)(B)(iii).

Under Section 307(d)(7)(B) of the CAA, 42 U.S.C. § 7607(d)(7)(B), EPA must convene a proceeding to reconsider a rule if a person "raising an objection can demonstrate to the Administrator that [1] it was impracticable to raise such objection within [the notice and comment period] . . . and [2] if such objection is of central relevance to the outcome of the rule." *Clean Air Council v. Pruitt*, 862 F.3d 1, 4–5 (D.C. Cir. 2017) (alterations in original). "Such reconsideration shall not postpone the effectiveness of the rule." 42 U.S.C. § 7607(d)(7)(B). "The statute also provides that the 'effectiveness of the rule may be stayed during such reconsideration, however, by the Administrator or the court for a period not to exceed three months.'" *Clean Air Council*, 862 F.3d at 5 (quoting § 7607(d)(7)(B)).

B.

EPA first promulgated accidental release prevention regulations in 1996. Accidental Release Prevention Requirements: Risk Management Programs Under Clean Air Act Section [7412(r)(7)], 61 Fed. Reg. 31,668 (June 20, 1996). In July 2012, a coalition of environmental groups, community organizations, unions, and health workers petitioned EPA for a rulemaking under Section 7412(r)(7) to "require the use of inherently safer technologies, where feasible, by facilities that use or store hazardous chemicals." Greenpeace, United Steelworkers, Sierra Club *et al.*, Petition to Prevent Chemical Disasters to EPA Administrator Lisa Jackson (July 25, 2012). The petition cited dangers from releases caused both by accidents and by terrorist attacks on U.S. chemical facilities.

Soon after, several chemical accidents occurred that received significant public attention and became subjects of CSB investigations. These accidents included the April 2013 explosion of a fertilizer plant in West, Texas and the June 2013 explosion of a chemical plant in Geismar, Louisiana. *See Oversight of Federal Risk Management and Emergency Planning Programs to Prevent and Address Chemical Threats, Including the Events Leading Up to the Explosions in West, TX and Geismar, LA, Hearing Before the S. Comm. on Envt. & Pub. Works*, 113th Cong. (2013) (statement of Rafael Moure-Eraso, Chairperson of the U.S. Chemical Safety Board). The West, Texas disaster involved a fire and explosion that crushed buildings and sent projectiles into neighboring communities, killing twelve first responders and two members of the public and causing $230 million in damage. The Geismar, Louisiana disaster also involved a fire and explosion, which killed two workers and injured many more.

On August 1, 2013, President Obama issued an executive order establishing a Chemical Facility Safety and Security Working Group co-chaired by the EPA Administrator and the Secretaries of Labor and Homeland Security. Exec. Order No. 13,650 § 2, *Improving Chemical Facility Safety and Security*, 78 Fed. Reg. 48,029 (Aug. 1, 2013). The Executive Order directed that within 90 days,

> [T]he Administrator of EPA and the Secretary of Labor shall review the chemical hazards covered by the Risk Management Program (RMP) . . . and determine if [it] can and should be expanded to address additional regulated substances and types of hazards. In addition, the EPA . . . shall develop a plan, including a timeline and resource requirements, to expand, implement, and enforce [the RMP] in a manner that

> addresses the additional regulated substances and types of hazards.

Id. § 6(c).

One year later, EPA published a request for information in the Federal Register seeking comment on "potential revisions to its [accidental release] regulations and related programs." Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act, Section [7412(r)(7)], 79 Fed. Reg. 44,604, 44,604 (July 31, 2014). The request solicited comments on dozens of potential regulatory actions under Section 7412(r), citing several chemical accidents that had occurred since the most recent promulgation of accidental release prevention requirements under that section. EPA received over 100,000 responses, including a 50-page letter from the CSB recommending dozens of regulatory regulations based on research and recent accident investigations.

In March 2016, EPA issued a Notice of Proposed Rulemaking proposing amendments to the accidental release prevention regulations. Accidental Release Prevention Requirements: Risk Management Programs under the Clean Air Act ("Disaster Rule NPRM"), 81 Fed. Reg. 13,638 (Mar. 14, 2016). The Disaster Rule NPRM explained that although EPA "believe[d] the [existing regulations] ha[ve] been effective in preventing and mitigating chemical accidents . . . [,] major incidents, such as the West, Texas explosion, highlight the importance of reviewing and evaluating current practices and regulatory requirements, and applying lessons learned . . . to advance process safety where needed." *Id.* at 13,646. EPA also explained that "[i]n addition to the tragedy at the West Fertilizer facility, *a number of other incidents* have demonstrated a significant risk to the safety of

American workers and communities," and proceeded to discuss several recent explosions and fires that resulted in death, injury, and property damage to workers, first responders, and local communities. *Id.* at 13,644 (emphasis added). EPA estimated the annualized cost of on-site damages from chemical releases was $274.7 million, and estimated the cost of carrying out the proposed rule would be $131.2 million annually for the 12,500 facilities potentially subject to its requirements. Although EPA was "unable to quantify what specific reductions [in damages] may occur as a result of these proposed revisions [to the accidental release regulations]," it "anticipate[d] that promulgation and implementation of this rule would result in a reduction of the frequency and magnitude of damages from releases," and "expect[ed] that some portion of future damages would be prevented through implementation of a final rule." *Id.* at 13,642. Further, EPA found, "the monetized impacts omit many important categories of accident impacts including lost productivity, the costs of emergency response, transaction costs, property value impacts in the surrounding community . . . , and environmental impacts." *Id.* at 13,643. The Disaster Rule NPRM specifically solicited comments on proposed compliance and effective dates for the various requirements.

EPA promulgated a final rule on January 13, 2017. Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act ("Chemical Disaster Rule"), 82 Fed. Reg. 4594 (Jan. 13, 2017). The final rule revised dozens of Section 7412(r)(7) requirements in three major areas: (1) accident prevention, including expanded post-accident investigations, more rigorous safety audits, safety training, and safer technology requirements; (2) emergency response, including more frequent coordination with local first responders and emergency response committees, and more intensive incident-response exercises; and (3) public

information disclosure, including public disclosure of safety information and public-meeting requirements. EPA responded to comments it received regarding the appropriate effective and compliance dates for various provisions of the rule and explained in detail why it chose to adopt or reject these recommendations. The final rule set an overall effective date of March 14, 2017, sixty days after promulgation. *Id.* at 4594. Some provisions related to clarifying regulatory definitions went into effect on that date. Others, including most local emergency-response coordination requirements, became effective in one year, on March 14, 2018. *Id.* at 4678. The requirements for emergency response exercises, public information-sharing and post-accident public meetings, third-party audits, more rigorous post-incident analyses, and safer technology requirements became effective three years later, on March 15, 2021. *Id.* The compliance deadline for covered facilities to submit an updated RMP was March 14, 2022. *Id.*

C.

Following a change in presidential administration, EPA delayed the effective date of the final Chemical Disaster Rule three times. On January 26, 2017, less than two weeks after promulgation of the rule, EPA published a final rule delaying its effective date by one week, to March 21, 2017, along with the effective dates of twenty-nine other final EPA rules. Delay of Effective Date for 30 Final Regulations Published by the Environmental Protection Agency Between October 28, 2016 and January 17, 2017, 82 Fed. Reg. 8499-02 (Jan. 26, 2017). This initial delay implemented a January 20, 2017 memorandum from then-White House Chief of Staff Reince Priebus directing agency heads to "temporarily postpone [the] effective dates for 60 days" of regulations that had been promulgated but not yet taken effect. Memorandum from Reince Priebus to Heads of Executive Departments and

Agencies: Regulatory Freeze Pending Review (Jan. 20, 2017) ("Priebus Memorandum"). The Priebus Memorandum also directed agency heads to "consider proposing for notice and comment a rule to delay the effective date for regulations beyond that 60-day period." *Id.*

On February 28, 2017, a coalition of industry groups submitted a petition for reconsideration of the Chemical Disaster Rule. A group of states also petitioned for reconsideration. About two weeks later, the EPA Administrator announced his determination that the criteria for reconsideration under Section 7607(d)(7)(B) had been met and, pursuant to that section, administratively stayed the Chemical Disaster Rule's effective dates for ninety days, until June 19, 2017. *See* Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Further Delay of Effective Date ("90-Day Stay"), 82 Fed. Reg. 13,968-02 (Mar. 16, 2017). During that stay, on April 3, 2017, EPA issued a notice of proposed rulemaking proposing to delay the effective date of the Chemical Disaster Rule by an additional 20 months, until February 19, 2019. Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Further Delay of Effective Date ("Delay Rule NPRM"), 82 Fed. Reg. 16,146-01, 16,148 (Apr. 3, 2017).

EPA promulgated the final rule on June 14, 2017, delaying the effective date of the Chemical Disaster Rule until February 19, 2019. Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Further Delay of Effective Date ("Delay Rule"), 82 Fed. Reg. 27,133-01 (June 14, 2017). The Delay Rule recounted that EPA has received three petitions for reconsideration of the Chemical Disaster Rule "as provided for in [Section 7607(d)(7)(B)]," and that EPA issued a three-month stay under that section because "the criteria for reconsideration ha[d] been met for at least one

of the three objections." *Id.* at 27,134–35. However, EPA explained, Section 7607(d)(7)(B) limits a stay "to three months," and "EPA believed that three months was insufficient to complete the necessary steps in the reconsideration process for the [Chemical Disaster Rule]." *Id.* at 27,135.

Thus, according to EPA, the Delay Rule has the purpose of "allow[ing] EPA to conduct a reconsideration proceeding and to consider other issues that may benefit from additional comment." *Id.* at 27,133. The Delay Rule further explained that EPA might take additional action during the 20-month delay period, "which could include proposing and finalizing a rule to revise or rescind [the Chemical Disaster Rule]." *Id.* EPA justified its choice of a 20-month delay because of the complex issues involved and "[b]ased on EPA rulemaking experience," without further elaboration. *Id.* at 27,140. It justified its delay of the first-responder coordination provisions — which otherwise would have been effective on March 14, 2018 — because "[i]n agreeing to convene a proceeding for reconsideration of the final rule, EPA agreed to provide the public with an opportunity to comment on other issues . . . . By finalizing these provisions immediately, EPA would not be allowing the public an additional opportunity to comment on them." *Id.* at 27,142. The Delay Rule also explained that "[a] delay of effectiveness will allow EPA time for a comprehensive review of objections to the [Chemical Disaster Rule] without imposing the rule's substantial compliance and implementation resource burden when the outcome of the review is pending." *Id.* at 27,136. EPA stated that "[c]ompliance with all of the rule provisions is not required as long as the rule does not become effective. The EPA did not propose and is not taking any action on any compliance dates at this time." *Id.* As authority for promulgating the Delay Rule, EPA cited Sections 7607(d) and 7412(r)(7). *Id.* at 27,135.

Two groups petitioned for review of the Delay Rule: over a dozen community and environmental groups, including Air Alliance Houston ("Community Petitioners"), and a number of states ("State Petitioners"). The United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO/CLC ("United Steelworkers"), intervened on behalf of Community Petitioners. A group of industry interests ("Industry Intervenors"), many of whom had petitioned EPA for reconsideration of the Chemical Disaster Rule, intervened on EPA's behalf.

II.

As a threshold matter, EPA and Industry Intervenors challenge the Article III standing of Community Petitioners and State Petitioners to bring these petitions. Standing is a structural, constitutional restraint on the subject matter jurisdiction of the federal judiciary. *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 412 (2013). Petitioners in an agency appeal must, in their opening brief, either identify "record evidence" or "submit additional evidence to the court of appeals" to support their standing. *Pub. Citizen, Inc. v. NHTSA* ("*Public Citizen I*"), 489 F.3d 1279, 1289 (D.C. Cir. 2007). "When evaluating such evidence concerning standing, we 'assume that on the merits the plaintiffs would be successful in their claims.'" *Id.* (quoting *City of Waukesha v. EPA*, 320 F.3d 228, 235 (D.C. Cir. 2003)).

To establish standing, a petitioner must show (i) it has "suffered a concrete and particularized injury in fact, (ii) that was caused by or is fairly traceable to the actions of the defendant, and (iii) is capable of resolution and likely to be redressed by judicial decision." *Sierra Club v. EPA*, 755 F.3d 968, 973 (D.C. Cir. 2014) (citing *Lujan v. Defs. of Wildlife*, 504

U.S. 555, 560–61 (1992)). "An allegation of future injury may suffice" to show injury in fact "if the threatened injury is 'certainly impending' or there is a 'substantial risk that the harm will occur.'" *Susan B. Anthony List v. Driehaus*, 134 S. Ct. 2334, 2341 (2014) (quoting *Clapper*, 568 U.S. at 414 n.5). The party asserting standing must also demonstrate "a causal connection between the injury and the conduct complained of." *Lujan*, 504 U.S. at 560. When challenging failure to regulate, a petitioner need demonstrate only a "substantial probability that local conditions will be adversely affected, and thus will harm members of the petitioner organization." *Am. Petroleum Inst. v. EPA*, 216 F.3d 50, 63 (D.C. Cir. 2000) (quotation marks omitted). At the same time, "when the [petitioner] is not himself the object of government action or inaction he challenges, standing is not precluded, but it is ordinarily 'substantially more difficult' to establish." *Lujan*, 504 U.S. at 562 (quoting *Allen v. Wright*, 468 U.S. 737, 758 (1984)).

"An organization has standing to sue on behalf of its members when . . . 'its members would otherwise have standing to sue in their own right.'" *Public Citizen I*, 489 F.3d at 1289 (quoting *Hunt v. Wash. State Apple Adver. Comm'n*, 432 U.S. 333, 343 (1977)). When organizations assert such representational standing, "they must demonstrate that at least one of their members would otherwise have standing to sue in his or her own right; that the interests they seek to protect are germane to their organizations' purposes; and that neither the claim asserted nor the relief requested requires the participation of individual members." *Sierra Club*, 755 F.3d at 973. "When more than one association brings suit, 'we need only find one party with standing' to satisfy the [standing] requirement." *Ctr. for Biological Diversity v. EPA*, 861 F.3d 174, 182 (D.C.

Cir. 2017) (quoting *Ams. for Safe Access v. DEA*, 706 F.3d 438, 443 (D.C. Cir. 2013)).

A.

EPA and Industry Intervenors do not contest that a challenge to the Delay Rule is germane to Community Petitioners' organizational purposes. Nor do they argue that the participation of individual members is necessary. The question, then, is whether Community Petitioners have adequately shown that at least one of their members meets the requirements of injury, traceability, and redressability. *See Sierra Club*, 755 F.3d at 973. They have.

Even if the only tangible impact of the Delay Rule were delay of the Chemical Disaster Rule's first-responder provisions, the potential harm to members of United Steelworkers is alone sufficient to provide standing to Community Petitioners. *Ctr. for Biological Diversity*, 861 F.3d at 182 (only one organization need have standing). Approximately 25,000 of United Steelworkers' members work in 350 covered chemical plants in the United States, and United Steelworkers-represented "refineries account for almost two-thirds of United States production. No single company, and no other union, either operates, or represents the workers in more plants that are the subject of the [RMP] regulations than" United Steel. Nibarger Decl. ¶ 2 (DEC. 96). Several declarations from United Steelworkers members describe hazards that they face from accidental releases as plant workers and that their families face as residents of communities close to the covered facilities. *See, e.g.*, Kelley Decl. ¶¶ 3–16 (DEC. 21–24); Lilienfeld Decl. ¶¶ 1–11 (DEC. 56–58); Nibarger

Decl. ¶¶ 1–20 (DEC. 96–99). For example, Ben Lilienfeld, a United Steelworkers member in Baytown, Texas, avers that:

> [A] butadiene release in 2015 at Shell Deer Park Refinery & Chemical in Deer Park, Texas, put our members at risk . . . . At the LyondellBasell facility in Houston, Texas, multiple fires have occurred over the last several years causing releases. The same risks that caused the explosions at the Phillips Pasadena complex in 1989 [— a series of explosions at a Texas chemical plant resulting from the accidental release of flammable process gases that killed 23 employees, injured 100 more, and caused $1.4 billion in damage —] still exist today and our members and communities were, are and will remain on the front line.

Lilienfeld Decl. ¶ 10 (DEC. 58); Comment, Coalition to Prevent Chemical Disasters (Oct. 29, 2014), J.A. 497. Such risks are particularized to chemical plant workers such as the United Steelworkers' members, and EPA found that the Chemical Disaster Rule would reduce the kinds of accidents that Lilienfeld and the other United Steelworkers declarants face in their workplace and communities, and would mitigate such harms by improving coordination between facilities and local first responders. *See* Chemical Disaster Rule, 82 Fed. Reg. at 4597; EPA Activities Under EO 13650: Risk Management Program (RMP) Final Rule Questions & Answers (June 2017) ("EPA's changes to the RMP rule will help protect local first responders, community members and employees from death or injury due to chemical facility accidents."). Living and working with a higher risk of such harms than

would exist if the Chemical Disaster Rule became effective on time is therefore directly traceable to the Delay Rule.

B.

State Petitioners also have Article III standing. "[T]here is no difficulty in recognizing [a state's] standing to protect proprietary interests or sovereign interests." 13B WRIGHT & MILLER, FED. PRAC. & PROC. § 3531.11.1, *Government Standing – States* (3d ed.). The Supreme Court has recognized "[t]wo kinds of nonsovereign interests" for state standing purposes: proprietary interests such as "own[ing] land or participat[ing] in a business venture," and private interests of another when the state is the "real party in interest." *Alfred L. Snapp & Son, Inc. v. Puerto Rico, ex rel., Barez*, 458 U.S. 592, 601–02 (1982).

The Delay Rule affects State Petitioners' proprietary interests due to the expenditures states have previously made and may incur again when responding to accidental releases during the delay period. State Pet. Br. 22–26. Hundreds of covered industrial facilities are located in State Petitioners' territory. Petitioner Washington State spent $370,000 responding to and investigating a refinery explosion that EPA specifically cited as an example of why the existing regulations needed to be strengthened. State Pet. Br. 26; Chemical Disaster Rule, 82 Fed. Reg. at 4599; *see also* Disaster Rule NPRM, 79 Fed. Reg. at 44,621 (explaining that the CSB found that this explosion in Washington State "could have been avoided if safer technologies had been employed"). Monetary expenditures to mitigate and recover from harms that could have been prevented absent the Delay Rule are precisely the kind of "pocketbook" injury that is incurred by the state itself. *See Snapp*, 458 U.S. at 602. Because State Petitioners have demonstrated their independent proprietary interests in

avoiding chemical releases in their territory sufficient to support standing, the court need not reach the alternative argument that Congress has abrogated the prudential bar on state *parens patriae* standing under the CAA. *See Md. People's Counsel v. FERC*, 760 F.2d 318, 320 (D.C. Cir. 1985).

III.

EPA has thrice delayed the effective date of the Chemical Disaster Rule, 82 Fed. Reg. 4594 (Jan. 13, 2017) (eff. Mar. 14, 2017). *First*, in response to a White House memorandum of January 20, 2017, EPA delayed the effective date by one week. Priebus Memorandum, 82 Fed. Reg. 8499-02 (Jan. 26, 2017). *Second*, on March 16, 2017, EPA granted industry petitions for reconsideration and stayed the effective date and compliance dates of the Chemical Disaster Rule for three months pursuant to Section 7607(d)(7)(B). 90-Day Stay, 82 Fed. Reg. 13,968-02 (Mar. 16, 2017). *Third*, during this stay, EPA promulgated the Delay Rule, 82 Fed. Reg. 27,133 (June 14, 2017). The preamble to the Delay Rule states that it allows EPA, beyond the three-month period authorized in Section 7607(d)(7)(B), "an additional 20 months . . . to conduct reconsideration proceedings and to consider *other issues that may benefit* from additional comment." *Id.* (emphasis added).

"[I]t is 'axiomatic' that 'administrative agencies may act only pursuant to authority delegated to them by Congress.'" *Clean Air Council*, 862 F.3d at 9 (quoting *Verizon v. FCC*, 740 F.3d 623, 632 (D.C. Cir. 2014)). This court reviews "an agency's construction of the statute which it administers" under the framework of *Chevron, U.S.A., Inc. v. NRDC*, 467 U.S. 837, 842 (1984). If "Congress has spoken directly to the precise question at issue" and "the intent of Congress is clear,

that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress." *Id.* at 842–43. But "if the statute is silent or ambiguous with respect to the specific issue," the court will uphold the agency's interpretation if it is reasonable. *Id.* at 843.

Section 7607(d)(7)(B) provides that reconsideration of a final rule pursuant to that section "shall not postpone the effectiveness of the rule" and that the "effectiveness of the rule may be stayed during such reconsideration . . . for a period not to exceed three months." It is beyond dispute that EPA relied upon Section 7607(d)(7)(B) when delaying the Chemical Disaster Rule in response to reconsideration petitions. Delay Rule, 82 Fed. Reg. at 27,134. Throughout the Delay Rule, EPA repeatedly justified delay of effective dates on the basis that it needs more time to reconsider the Chemical Disaster Rule than was provided under Section 7607(d)(7)(B). *See id.* at 27,136 ("A delay of effectiveness will allow EPA time for a comprehensive review of objections to the [Chemical Disaster Rule] without imposing the rule's substantial compliance and implementation resource burden when the outcome of the review is pending."); *id.* at 27,138 ("EPA concurs with commenters to the extent that they argue for finalizing the proposed delay in effective date . . . *in order to conduct a reconsideration proceeding*." (emphasis added)); *id.* at 27,140 ("[T]hese issues may be difficult and time consuming to evaluate."). The only justification offered in EPA's short summary of the Delay Rule is that it "allows the Agency time to consider petitions for reconsideration of the [Chemical Disaster Rule] and take further regulatory action, as appropriate." *Id.* at 27,133. But regardless whether EPA "believe[s] that three months [is] insufficient to complete the necessary steps in the reconsideration process," *id.* at 27,135, that is not EPA's call. Congress saw fit to place a three-month statutory limit on "such reconsideration," 42 U.S.C.

§ 7607(d)(7)(B), and this court "must give effect to the unambiguously expressed intent of Congress," *Chevron*, 467 U.S. at 843. Because the Delay Rule arose from reconsideration petitions under Section 7607(d)(7)(B) and EPA's reliance on its authority to delay a rule for reconsideration under that provision, that statute's limitations apply.

Tellingly, EPA's briefing makes no mention of its reliance on Section 7607(d)(7)(B) in promulgating and justifying the Delay Rule. Rather, EPA argues that the Delay Rule is permissible under 42 U.S.C. § 7412(r)(7), which provides that a rule's effective date "as determined by the Administrator" must "assure[] compliance as expeditiously as practicable." *See* Respondent Br. 27–35. Even if Section 7412(r)(7) grants EPA authority to delay the effectiveness of a final rule in the absence of reconsideration under Section 7607(d)(7)(B), it is well established that an agency may not circumvent specific statutory limits on its actions by relying on separate, general rulemaking authority. As we explained in *NRDC v. Reilly*, a "general grant of rulemaking power . . . [cannot] trump the specific provisions of the act." 976 F.2d 36, 40 (D.C. Cir. 1992); *see also Long Island Care at Home, Ltd. v. Coke*, 551 U.S. 158, 169–70 (2007) (explaining that when two regulations conflict on the same subject matter, "the specific governs the general," and the more specific regulation applies). Similarly, in *Halverson v. Slater*, this court held that the Secretary of Transportation's general statutory authority to delegate "duties and powers of the Secretary to an officer or an employee of the Department" was trumped by a more specific provision that the "Secretary may delegate the duties and powers conferred by this subtitle . . . to any officer, employee, or member of the Coast Guard." 129 F.3d 180, 183–84 (D.C. Cir. 1997). This court rejected the Secretary's argument that he could use his general delegation authority absent an express restriction on

that authority, concluding that under *Chevron* step one, "the language of [the more specific provision] compels the conclusion that the Congress did not intend to authorize delegation of [these] functions to a non-Coast Guard official." *Id.* at 185; *see also Chemical Waste Mgmt., Inc. v. EPA*, 976 F.3d 2, 22 (D.C. Cir. 1992) (EPA may not "accommodate" two statutes by allowing one to "override" the more specific requirements of the other).

So too here. EPA cannot escape Congress's clear intent to specifically limit the agency's authority under Section 7607(d)(7)(B) by grasping at its separate, more general authority under Section 7412(r)(7). That would almost always allow EPA to avoid the restrictions of Section 7607(d)(7)(B) by simply insisting it was invoking Section 7412(r)(7), even when it is indisputably responding to a Section 7607(d)(7)(B) petition and reconsidering a rule under that specific provision. Such an unreasonable interpretation "would deprive [the more specific authority] of virtually all effect." *Halverson*, 129 F.3d at 189 (quoting *Am. Fed'n of Gov't Emps. v. FLRA*, 798 F.2d 1525, 1528 (D.C. Cir. 1986)).

The court's conclusion that the plain text of Section 7607(d)(7)(B) limits EPA's authority to delay final rules for the purposes of reconsideration under that provision is bolstered by the statute's history. Congress enacted the CAA in 1970 to encourage and promote "pollution prevention." 42 U.S.C. § 7401(c). It found that that air pollution posed "mounting dangers to the public health and welfare, including injury to agricultural crops and livestock, damage to and the deterioration of property, and hazards to air and ground transportation." *Id.* § 7401(a)(2). It envisioned a cooperative effort by federal, state, and local governments to, among other things, "protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare." *Id.*

§ 7401(b), (c). EPA was directed to carry out these purposes by, for instance, identifying and listing hazardous air pollutants ("HAPs"), setting standards for mobile sources, and issuing rules for new stationary sources. In fact, statutory deadlines were not met for meeting the National Ambient Air Quality Standards ("NAAQS"), and Congress found that "many of the Nation's most important air pollution problems have failed to improve or have grown more serious." H.R. REP. No. 101-490, at 144 (May 17, 1990). Also, "a number of serious new air pollution problems have emerged." *Id.* In 20 years, EPA had established standards for only seven HAPs, "a small fraction of the many substances associated . . . with cancer, birth defects, neurological damage, or other serious health impacts." *Id.* at 151.

In 1990, Congress — no longer willing to wait for EPA to act — amended the CAA. Section 7412 of Title III, the HAPs provision, was amended to establish "a new program for the control of [HAPs]." *Id.* at 315. Congress identified and listed 189 HAPs and assigned specific timetables for the promulgation of regulations and the attainment of NAAQS. Significantly for present purposes, Congress was aware that "[a]ccidental releases of air toxics occur with surprising frequency." *Id.* at 154. The 1990 Amendments created "a new program under which EPA is to establish reasonable and appropriate regulations to prevent and detect accidental releases to the maximum extent practicable." *Id.* at 157; *see* S. REP. No. 101-228, at 237 (Dec. 20, 1989). The section-by-section analysis stated:

> *Accident prevention, detection, and response.*— [Section 7412(r)(7)] directs the Administrator within three years of enactment to promulgate, in consultation with the Secretaries of Transportation and Labor . . . regulations to provide, to the greatest

> extent practicable, for the prevention and detection of accidental releases into the ambient air. The regulations must also provide for effective responses to such accidental releases by regulated sources. The regulations are to take effect three years after promulgation.

H.R. REP. No. 101-490, at 334.

The Chemical Disaster Rule is the most recent outgrowth of Congress's effort in the 1990 Amendments to ensure adequate protections against highly dangerous accidental releases of chemicals. By Executive Order No. 13,650, *Improving Chemical Facility Safety and Security*, 78 Fed. Reg. 48,029 (Aug. 1, 2013), issued in the wake of serious disasters at chemical plants, EPA and several other agencies were directed to "improve chemical facility safety and security in coordination with owners and operators," *id.* § 1, and EPA was instructed to strengthen its accident prevention regulations, *id.* §§ 2–7. EPA issued a notice of proposed rulemaking in March 2016, held public hearings, and received written comments. The final rule revised and strengthened accident prevention, emergency response, and public information disclosure requirements. Chemical Disaster Rule, 82 Fed. Reg. at 4595; *see supra* Part [I.B]. It was to take effect in 30 days, on March 14, 2017, with different compliance dates for some provisions in order to accommodate industry needs. Chemical Disaster Rule, 82 Fed. Reg. at 4594, 4678.

EPA brought this regulatory action to a halt. Section 7607(d)(7)(B) provides:

> If the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within such time or if the grounds for

> such objection arose after the period for public comment . . . and if such objection is of central relevance to the outcome of the rule, the Administrator shall convene a proceeding for reconsideration of the rule . . . . *Such* reconsideration shall not postpone the effectiveness of the rule. The effectiveness of the rule may be stayed during such reconsideration, however, by the Administrator or the court for *a period not to exceed three months*.

42 U.S.C. § 7607(d)(7)(B) (emphasis added). In the Delay Rule, EPA interpreted that provision as "generally allow[ing] the EPA to set effective dates as appropriate unless other provisions of the CAA control." Delay Rule, 82 Fed. Reg. at 27,135. As an initial matter, EPA previously interpreted that provision as establishing the CAA's exclusive mechanism for staying the effectiveness of a final rule pending reconsideration. *See* EPA Mem. in Opp. to Sierra Club's Mot. for Summ. J. at 11, *Sierra Club v. Jackson*, No. 1:11-cv-01278 (D.D.C. Aug. 25, 2011). In any event, there is no textual basis for EPA's current interpretation.

The court has explained that Section 7607(d)(7)(B) "authorizes the agency to grant a stay during '*such* reconsideration,' a term that quite obviously refers back to the reconsideration EPA 'shall' undertake when someone presents an objection of 'central relevance' that was 'impracticable' to raise during the period for public comment." *Clean Air Council*, 862 F.3d at 9 (emphasis added) (quoting 42 U.S.C. § 7607(d)(7)(B)). Regardless whether the three-month stay authorized by Section 7607(d)(7)(B) is cabined by the word "such," the Delay Rule is the functional equivalent of a stay under that section. It is based on industry petitions for reconsideration and is the direct outgrowth of the three-month stay EPA issued under Section 7607(d)(7)(B). In the Delay

Rule, EPA makes no finding that a 20-month delay is required for regulated parties over and above the delayed compliance dates in the Chemical Disaster Rule. Instead, EPA repeatedly states that it was using the 20 months merely to reconsider concerns expressed by industry and unidentified "other issues that may benefit from additional comment." Delay Rule, 82 Fed. Reg. at 27,133, 27,135, 27,140. It has neither adopted industry concerns as its own nor proposed substantive changes to the programmatic requirements of the Chemical Disaster Rule. Because the Delay Rule is for all intents and purposes a Section 7607(d)(7)(B) stay pending reconsideration for EPA to decide what it wants to do, rather than a substantive amendment to tools and programs in the Chemical Disaster Rule, it cannot delay the effective date beyond three months.

Nor is the Delay Rule authorized by Section 7412(r)(7). Section 7412(r)(7) is a comprehensive accident prevention regime affording EPA broad discretion as to regulatory tools, albeit with multiple requirements. Subparagraph (A) references types of *substantive* actions that EPA may require by regulation: "release prevention, detection, and correction requirements which may include monitoring, record-keeping, reporting, training, vapor recovery, secondary containment, and other design, equipment, work practice, and operational requirements." Once EPA makes a substantive regulatory choice — to add, modify, or subtract requirements — EPA must set an effective date for that choice that will "assur[e] compliance as expeditiously as practicable." Subparagraph (B) requires EPA to determine that such regulations "provide, to the greatest extent practicable, for the prevention and detection of accidental releases of regulated substances." And subparagraph (E) provides that the three-month time limit of Section 7607(d)(7)(B) applies to regulations promulgated pursuant to Section 7412(r)(7). Reading the plain text makes clear that Congress is seeking meaningful, prompt *action* by

EPA to promote accident prevention. In this way, the framework of Section 7412(r)(7) does not differ significantly from the "highly circumscribed schedule" analyzed in *Reilly*, 976 F.2d at 41, where the court held that EPA's general rulemaking authority under the CAA could not "trump the specific provisions of the Act," *id.* Section 7412(r)(7) contains several "highly circumscribed" timing components. *See* S. REP. No. 101-228, at 237–39.

The Delay Rule is not the type of substantive amendment authorized by Section 7412(r)(7). EPA has interpreted that section as according it "flexibility to make a rule effective with no specific outside date beyond that which 'assur[es] compliance as expeditiously as practicable.'" Delay Rule, 82 Fed. Reg. at 27,135. The Delay Rule states that "[i]n light of EPA's commitment to take further regulatory action *in the near future*, with the potential for a broad range of rule revisions . . . and the substantial resources required," "several industry trade associations" that had submitted "comment agreed that the 20-month delay in the effective date would be as expeditious[] as practicable." *Id.* (emphasis added). But EPA merely references arguments without standing behind any of them. By its own repeated admissions in the preamble to the Delay Rule, EPA has made no substantive decisions demanded by Section 7412(r)(7). The preamble reveals no attempt by EPA to consider how much time industry needs to comply, or why 20 months, as opposed to some other period of delay, are necessary. Nor does it engage with EPA's determinations and findings in the Chemical Disaster Rule with respect to compliance dates. *See* 82 Fed. Reg. at 4675–80 (Part VIII). Nor does EPA claim to have changed those findings or taken any action with respect to them. Instead, EPA posits instead that the Delay Rule is designed to allow *it* time to rethink "the difficulties of compliance planning" while also claiming it is not revisiting the compliance dates or the rationale underlying

them. Delay Rule, 82 Fed. Reg. at 27,137. *But see id.* at 27,144 n.23. To the extent EPA offers any reasoning — namely, that "[a] delay of 20 months is a reasonable length of time" for *it* "to engage in the process of revisiting issues in the underlying [Chemical Disaster Rule]," *id.* at 27,136 — that reasoning does not relate to what is "practicable" for compliance by regulated sources; its explanation relates to its own "unidentified, new 'policy preferences' and the mere fact of reconsideration." Cmty. Pet. Br. 42 (quoting Delay Rule, 82 Fed. Reg. at 27,136).

This makes a mockery of the statute. The Delay Rule does not have the purpose or effect of "assur[ing] compliance" with Section 7412(r)(7); it is calculated to enable non-compliance. The Delay Rule removes both immediate and future obligations under the Chemical Disaster Rule, authorizing regulated facilities to ignore all pre-2019 deadlines. Delay Rule, 82 Fed. Reg. at 27,142, 27,144 n.23. Read as a whole, Section 7412(r)(7)'s effective date provision is intended to provide a short window of notice before facilities are required to comply or prepare to comply with agency regulations. *See* 42 U.S.C. § 7412(r)(7)(E). In addition, the Delay Rule does not demonstrate, or even acknowledge, that EPA considered Section 7412(r)(7)'s statutory objectives, namely, to "prevent accidental releases," to "minimize . . . consequences of any such release," to "protect human health and the environment," and "to include procedures and measures for emergency response after an accidental release." *Id.* § 7412(r)(1), (r)(7)(A), (r)(7)(B). The Delay Rule undermines these objectives without explaining why implementation delay was necessary; it refers only to the fact of EPA's own reconsideration. By contrast with EPA's final, record-based determinations in setting the Chemical Disaster Rule's effective and compliance dates, EPA makes no findings of its own in the Delay Rule. It refers merely to alleged "security risks" and other hypotheticals raised by industry without

endorsing those findings or concerns. *See, e.g.*, Delay Rule, 82 Fed. Reg. at 27,136, 27,138, 27,140–41. Indeed, EPA *explicitly* conceded that it "has not concluded [the Chemical Disaster Rule] would increase such risks." *Id.* at 27,141. The Delay Rule thus contains no provisions that advance or accomplish these goals, but instead delays these objectives contrary to EPA's prior determinations in a rulemaking.

By delaying the effective date, EPA has delayed compliance, reduced or eliminated the lead-up time to achieve the compliance that EPA had earlier found necessary, and thus has delayed life-saving protections. EPA may not employ delay tactics to effectively repeal a final rule while sidestepping the statutorily mandated process for revising or repealing that rule on the merits. EPA states that it "does not wish to cause confusion among the regulated community and local responders by requiring these parties to prepare to comply with, or in some cases, immediately comply with, rule provisions that might be changed during the subsequent reconsideration." *Id.* at 27,139. But this "confusion" stems solely from the confusion EPA has caused by the almost two-years' reconsideration it desires in order to decide what it wants to do, not compliance concerns relevant to regulated facilities' implementation of the Chemical Disaster Rule. That is not a basis for delaying protections. That the pre-existing rule remains in effect during the delay period does not show the Delay Rule satisfies Section 7412(r)(7). In promulgating the Chemical Disaster Rule, EPA had found, and the record shows, that there was a need for improvements to protect worker and community safety, and to reduce facilities, injuries, life disruption, and other harm. Chemical Disaster Rule, 82 Fed. Reg. at 4599–600.

Without regard to context, purpose, or history, EPA has equated its authority to amend a final rule pursuant to

applicable statutory requirements with authority to delay a final rule merely because EPA is *considering* revising it. Delay Rule, 82 Fed. Reg. at 27,133, 27,136, 27,138. The overarching statutory purpose and design of the CAA, as well as the statutory context of Section 7412(r)(7) and Section 7607(d)(7)(B), reject an interpretation that EPA can further delay a final rule for reconsideration when it has neither explained it has reached a different conclusion about preventing accidental releases nor offered new evidence to support a different conclusion, but has delayed a final rule based on speculation about future amendments. That does not conform to the carefully designed regime Congress envisioned in the 1990 Amendments. Congress has twice emphasized the finality of CAA rules by prohibiting reconsideration from delaying a final rule. Section 7607(d)(7)(B) provides a strict limit of three months on stays of effective dates pending reconsideration, and Section 7607(b)(1) provides that a petition for judicial review "shall not affect the finality of such rule . . . and shall not postpone the effectiveness of such rule." These provisions (read in light of the history of the 1990 Amendments) show Congress intended EPA to act with appropriate dispatch, not to delay protections. EPA points to nothing that would allow a misuse of its substantive rulemaking authority to evade these limits.

EPA's interpretation of its delay authority is not reasonable because it has no stopping point. Nothing in the text, context, structure, or history of the CAA supports interpreting Section 7412(r)(7) as allowing delays akin to those that prompted Congress to adopt the 1990 Amendments in order to spur EPA action. As Community Petitioners note, the absence of a date from the "practicable" clause in Section 7412(r)(7)(B) does not reveal a lack of legislative urgency for effectiveness and compliance, but rather reflects Congress's acknowledgement that, depending on EPA's regulatory

choices, some flexibility in timing might be required. *See* Cmty. Pet. Br. 44 (citing S. REP. No. 101-228, at 234–35, 245). EPA may not "substitut[e] [its] desires for the plain text" of the Act. *New Jersey v. EPA*, 517 F.3d 574, 582–83 (D.C. Cir. 2008). Nor may it render illusory a limitation like Section 7607(d)(7)(B), which is designed to limit EPA's authority and facilitate judicial review by assuring finality and creating an agency record. *See* S. REP. No. 101-228, at 372.

For these reasons, the Delay Rule must be vacated. Our holding is narrow, as our analysis makes clear. In the Delay Rule, EPA has neither substantively amended — nor proposed any substantive amendments to — the Chemical Disaster Rule, but instead seeks to delay that rule pending reconsideration during which it decides what it wants to do. EPA retains authority under Section 7412(r)(7) to substantively amend the programmatic requirements of the Chemical Disaster Rule, and pursuant to that authority, revise its effective and compliance dates, subject to arbitrary and capricious review.

IV.

Moreover, EPA's promulgation of the Delay Rule was arbitrary and capricious. Although "[t]he scope of review under the 'arbitrary and capricious' standard is narrow . . . the agency must examine the relevant data and articulate a satisfactory explanation for its action including a rational explanation of the facts found and the choice made." *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (quotation marks omitted). When an agency reverses itself, it "must show that there are good reasons for the new policy," but it need not show that "the reasons for the new policy are *better* than the reasons for the old one." *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009) (emphasis in original). However, if the "new policy

rests upon factual findings that contradict those which underlay its prior policy," it must provide "a reasoned explanation . . . for disregarding facts and circumstances that underlay or were engendered by the prior policy." *Id.* at 515–16; *see also Encino Motorcars, LLC v. Navarro*, 136 S. Ct. 2117, 2126 (2016) ("[A]n 'unexplained inconsistency' in agency policy is 'a reason for holding an interpretation to be an arbitrary and capricious change from agency practice.'" (quoting *Nat'l Cable & Telecomm. Ass'n v. Brand X Internet Servs.*, 545 U.S. 967, 981 (2005))).

EPA's explanations for its changed position on the appropriate effective and compliance dates are inadequate under *Fox* and *State Farm*, and therefore arbitrary and capricious, for several reasons. *See* 42 U.S.C. § 7607(d)(9).

First, EPA repeatedly justifies the 20-month delay as providing time for taking and considering public comment on the Chemical Disaster Rule and any potential revisions or rescission thereof. But EPA nowhere explains how the effectiveness of the rule would prevent EPA from undertaking notice and comment or other tasks for reconsideration, why a delay is necessary to EPA's process, or how the Chemical Disaster Rule becoming effective on schedule would otherwise impede its ability to reconsider that rule. *See Public Citizen v. Steed*, 733 F.2d 93, 102 (D.C. Cir. 1984) ("Without showing that the old policy is unreasonable, for [the agency] to say that no policy is better than the old policy solely because a new policy *might* be put into place in the indefinite future is as silly as it sounds." (emphasis in original)). Agencies regularly reconsider rules that are already in effect. But as the Second Circuit has pointed out, "a decision to reconsider a rule does not simultaneously convey authority to indefinitely delay the existing rule pending that reconsideration." *NRDC v. NHTSA*, 894 F.3d 92, 111–12 (2d Cir. 2018) (citing *Clean Air Council*,

862 F.3d at 9). Thus, the mere fact of reconsideration, alone, is not a sufficient basis to delay promulgated effective dates specifically chosen by EPA on the basis of public input and reasoned explanation, particularly where the statute requires the agency to "assur[e] compliance as expeditiously as practicable." 42 U.S.C. § 7412(r)(7)(A). Further, under the plain text of Section 7412(r)(7), the timeframe for effective or compliance dates must be justified in terms of "*assuring compliance* as expeditiously as practicable," meaning that EPA must explain why its proposed timeline is practicable for regulated parties *to comply with the rule expeditiously* — not for the agency to engage in the regulatory process. *Id.* (emphasis added).

Second, nothing in the Delay Rule explains EPA's departure from its stated reasoning in setting the original effective date and compliance dates. In promulgating the Chemical Disaster Rule, EPA considered comments specifically about the rule's proposed effective date and the compliance timeline for various requirements, and explained why it adopted or rejected the comments. *See* Chemical Disaster Rule, 82 Fed. Reg. at 4675–78. For example, EPA "received comments supporting the proposed one-year compliance date for emergency response coordination activities," and "EPA agree[d] with commenters and [was] finalizing a one-year compliance date for emergency response coordination activities." *Id.* at 4,677. As another example, one commenter objected to a four-year compliance date for emergency-response exercises and argued the deadline should be one year; EPA disagreed because four years would "allow owners and operators to develop an exercise program," train personnel, and familiarize themselves with guidance EPA expected to develop after promulgation of the Chemical Disaster Rule. *Id.*

The Delay Rule does not explain its departure from EPA's previous conclusions regarding the appropriate and practicable timeline for implementing the Chemical Disaster Rule. Nor does it explain why the detailed factual findings regarding the harm that would be prevented upon implementation of the Chemical Disaster Rule are now only "speculative," *id.* at 27,139, or why the entire rule must be delayed wholesale despite its many different provisions with different effective and compliance dates. Although EPA need not show that "the reasons for the new policy are *better* than the reasons for the old one," it must provide "a reasoned explanation . . . for disregarding facts and circumstances that underlay or were engendered by the prior policy." *Fox*, 556 U.S. at 515–16. EPA has not done so. Instead, EPA attempts to minimize the impact of the Delay Rule by asserting that by merely delaying the overall effective date until February 2019, it leaves the major compliance dates unaffected. Delay Rule, 82 Fed. Reg. at 27,137 ("This rule does not impact compliance dates except for those dates that would be triggered prior to February 2019."). This assertion is incompatible with the EPA's statement in the Delay Rule — and the common-sense conclusion — that "[a] delay of effectiveness will allow EPA time for a comprehensive review of objections to the [Chemical Disaster Rule] without imposing the rule's substantial compliance and implementation resource burden when the outcome of the review is pending." *Id.* at 27,136. EPA and the Industry Intervenors contend that the Delay Rule has no significant costs because it merely maintains the "status quo," as regulated sources are not required to comply with all but one "major" provision until 2020. Putting aside EPA's concession that the Delay Rule immediately delays multiple "minor" provisions and would delay the "major" first-responder coordination provisions, the baseline for measuring the impact of a change or rescission of a final rule is the requirements of the rule itself, not the world as it would have been had the rule

never been promulgated. *See Consarc Corp. v. OFAC*, 71 F.3d 909, 913 (D.C. Cir. 1995) ("The legal definition of *status quo ante* [is] . . . the last uncontested status which preceded the pending controversy." (quotations marks omitted)). The status quo would be a Chemical Disaster Rule that went into effect on March 14, 2017, with the ongoing compliance efforts by regulated parties to meet the compliance deadlines set in that rule.

EPA cannot have it both ways. Either there would be "substantial compliance and implementation" efforts by regulated parties absent the Delay Rule, or the rule has no effect on compliance requirements and does nothing more than maintain the status quo with "speculative but likely minimal . . . foregone benefits." Delay Rule, 82 Fed. Reg. at 27,139. Therefore, EPA has failed to rationally explain its departure from its previous conclusions about appropriate compliance periods that it reached after specifically soliciting and considering comments on the subject. *See NRDC, Inc. v. EPA*, 683 F.2d 752, 760–61 (3d Cir. 1982) ("By postponing the effective date of the amendments, EPA reversed its course of action up to the postponement. That reversal itself constitutes a danger signal.").

Third, contrary to EPA's statement in the Delay Rule that "the timing" of a "finding by the Bureau of Alcohol, Tobacco, and Firearms . . . that the West Fertilizer explosion was caused by arson" rather than an accident supports delay, that is not a reasoned basis for delaying the *entire* Chemical Disaster Rule. *See* 82 Fed. Reg. at 27,137–38. EPA cited many more incidents than just the West, Texas disaster throughout the development and promulgation of the rule. *See, e.g.*, Chemical Disaster Rule NPRM, 79 Fed. Reg. at 44,608 ("An April 8, 2011 explosion at [a plant in] Hawaii killed five workers who were disposing of fireworks."); *id.* at 44,616 ("In October

2007, five contractor workers were killed [at a plant] in Georgetown, Colorado, when a fire occurred inside a tunnel . . . . The CSB found that inadequate contractor safety practices and oversight contributed to the accident."); *id.* at 44,618 (citing the "CSB's findings concerning a lack of rigorous compliance audits in the 2005 BP Texas City Refinery explosion" that killed fifteen plant workers); Chemical Disaster Rule, 82 Fed. Reg. at 4599 (citing, in a section titled "Events Leading to This Action," "[i]n addition to the tragedy . . . in West, Texas," "an explosion and fire at the Tesoro Refinery in Anacortes, Washington," a fire "at the Chevron Refinery in Richmond, California," and "a fire and explosion at Williams Olefins in Geismar, Louisiana."). Even were the court to agree for purposes of argument that the cause of the West, Texas disaster being arson is relevant to some of the accident-prevention provisions of the Chemical Disaster Rule, it is irrelevant to the emergency-response and information-sharing provisions, including those that have indisputably been delayed from the original March 14, 2018 effective date. Given that twelve of the fifteen fatalities in the West, Texas disaster were local volunteer firefighters and other first responders, this would be a fairly weak explanation for delaying provisions that EPA previously determined would help keep first responders safe and informed about emergency-response planning.

Because EPA has not engaged in reasoned decisionmaking, its promulgation of the Delay Rule is arbitrary and capricious.

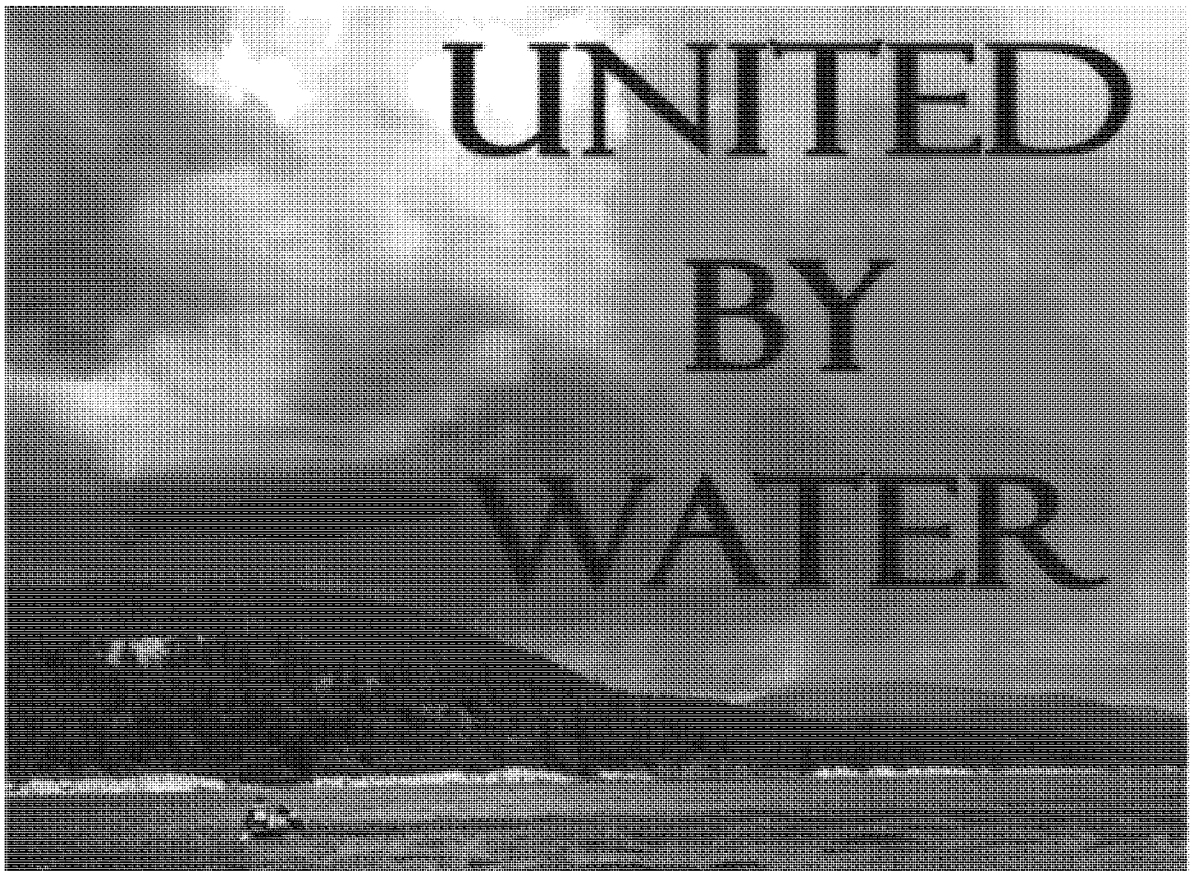
* * *

Accordingly, the court grants the petitions for review and vacates the Delay Rule.

Tribal Lands and Environment Forum: A National Conversation on Tribal Land and Water Resources

August 13-16, 2018

Spokane, Washington



Promotional poster for the Upper Columbia United Tribe's film "United By Water," which will be screened Wednesday evening.

Conference Booklet

The Institute for Tribal Environmental Professionals (ITEP) and the National Tribal Waste and Response (TWAR) Steering Committee are proud to bring you the 2018 Tribal Lands and Environment: A National Conversation on Tribal Land and Water Resources. This event is made possible by a grant from the US Environmental Protection Agency's Office of Land and Emergency Management (OLEM) and Office of Water (OW).

Thank You to All the Local Tribes Who Assisted Us This Year!

The Tribal Lands and Environment Forum Team would like to sincerely thank the Spokane Tribe, Coeur d'Alene Tribe, Nez Perce Tribe, the Confederated Tribes of the Colville Reservation, and the Upper Columbia United Tribes for all they did to help ITEP and the Tribal Waste and Response Steering Committee this year.

Their assistance proved invaluable in hosting several outstanding field trips, participating in special evening events, and participating during the opening and closing plenary, as well as the Multi Media Meetup. Their generosity and knowledge have added a great deal to this year's TLEF. We sincerely appreciate their warm hospitality!

Spokane Tribe of Indians

UCUT
UPPER COLUMBIA UNITED TRIBES

COEUR D'ALENE TRIBE

NEZ PERCE TRIBE
TREATY OF 1855

Table of Contents

Topic	Page
About the Tribal Lands and Environment Forum	3
The Upper Columbia United Tribes	4
About ITEP, TWRAP, and the TWAR Steering Committee	5-6
Agenda At-a-Glance	7-10
Detailed Agenda	11-37
Trainings/Field Trips Monday, August 13	11-13
Trainings/Field Trips Tuesday, August 14	14-15
Plenary/Breakout Sessions Tuesday, August 14	16-19
Breakout Sessions Wednesday, August 15	19-27
Breakout Sessions Thursday, August 16	28-36
Closing Plenary and Your On-Site ITEP Team	37
Special Evening Events	38
Speaker Bios	39-49
Convention Center Map	51
Meet Our Vendors	53

About the Tribal Lands and Environment Forum

The 2018 Tribal Lands and Environment Forum: A National Conversation on Tribal Land and Water Resources is a joint effort between the Institute for Tribal Environmental Professionals (ITEP), the National Tribal Waste and Response (TWAR) Steering Committee, US EPA's Office of Land and Emergency Management (OLEM) and US EPA's Office of Water (OW). This is the eighth annual forum for environmental professionals from tribes, US EPA, State/Local/Federal agencies, community organizations, and other interested parties to meet, share knowledge and learn from one another how to improve management and protection of tribal lands and human health. Opportunities for discussion of budget and policy issues as well as technical updates and information will be available throughout the conference. Additionally, training sessions, tribe-to-tribe sharing, educational outreach projects, and many more sessions will enhance both learning and networking among attendees. The Tribal Lands and Environment Forum is made possible by funding from the US Environmental Protection Agency.

Forum Staff

On-site support staff are available to assist you during the Forum and will be available at the registration table located in the Riverside Lobby (Hall D).

Registration

The Forum Registration table is available Sunday from 4:00pm to 6:00pm, Monday 6:30am to 6:00pm, and Tuesday from 7:00am to 1:30pm, in the Riverside Lobby (Hall D). Attendees were asked to sign up in advance for field trips; however, sign-up sheets will be available for those field trips with space available.

Refreshments

Light refreshments will be provided in the mornings and afternoons of Tuesday through Thursday. (Morning refreshments only will be offered on Monday.) Refreshments will be located with the vendors in Exhibit Hall B.

Raffle

Each attendee will receive one ticket when they register at the desk. Drawings will take place at the registration desk on Tuesday and Wednesday at noon. Winning numbers will be written up on the message board, so be sure to stop by the registration desk to see if you've won. A final raffle drawing will take place during the closing plenary on Thursday afternoon.

Photographs and Video

Photographs will be taken during this publicly-sponsored event. Photos will be used for outreach by ITEP in the form of publications, websites, brochures, and other media. We also have a videographer on our team this year who will be making a special video of the event.

Website for Conference Materials

After the conference, please visit ITEP's Tribal Lands and Environment Forum website to download pictures, presentations, handouts and other materials from the conference. A networking list of all attendees will also be available at nau.edu/itep/main/conferences/confr_tlef.

Evaluations

Evaluations will be conducted online after the forum. Requests to complete evaluations will be emailed to all participants. You will also be able to access the evaluation through the Tribal Lands and Environment Forum website at nau.edu/itep/main/conferences/confr_tlef.

ED_002087_00000470-00004

Upper Columbia United Tribes

The Upper Columbia United Tribes (UCUT) takes a proactive, collaborative, and science-based approach to promoting fish, water, wildlife, diverse habitat, and Indian culture in the Northwest.

Together, we manage and influence nearly two million acres of reservation land, and we influence at least 14 million acres of aboriginal territories, 500 miles of waterways, 40 interior lakes, and 30 dams and reservoirs. Formed in 1982, we came together to ensure a healthy future for the traditional territorial lands of our ancestors. As sovereign nations, we are charged with the protection and enhancement of our natural resources.

Member Tribes

We provide a common voice for our region through the collaboration of five area tribes: the Coeur d'Alene Tribe, the Confederated Tribes of the Colville Reservation, the Kalispel Tribe of Indians, the Kootenai Tribe of Idaho and the Spokane Tribe of Indians.

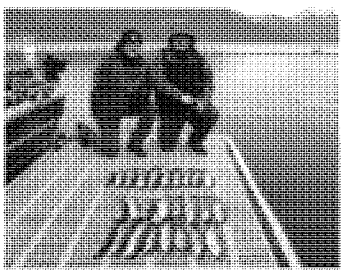
Mission

Unite for the protection, preservation, and enhancement of Treaty/Executive Order Rights, Sovereignty, Culture, Fish, Water, Wildlife, Habitat, and other interests and issues of common concern in our respective territories through a structured process of cooperation and coordination for the benefit of all.

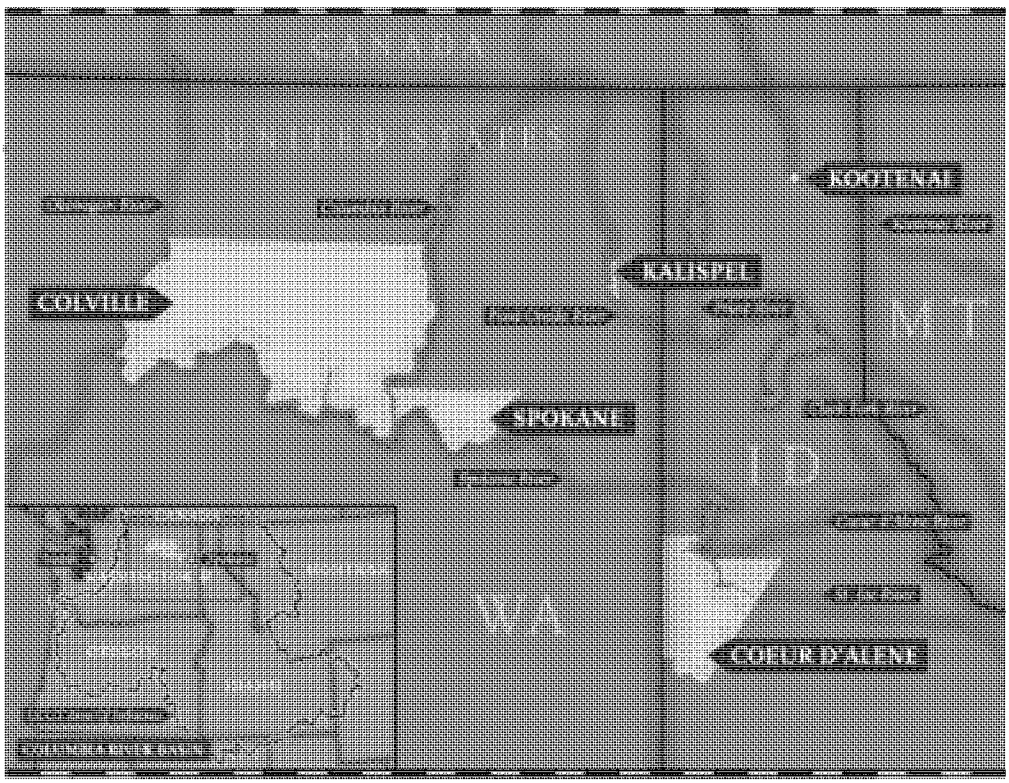
Past, Current, and Future Projects and Collaborations

- Habitat restoration and preservation for terrestrial and aquatic ecosystems
- Hydro-systems management
- Recovery of native fish harvesting through protecting salmon passage, implementing hatchery projects, and non-native fish removal
- Monitoring wildlife and habitat by conducting surveys with member Tribes
- Protecting and incorporating cultural and ceremonial uses of resources provided by the Columbia River Watershed.

The Lake Roosevelt Artificial Production Program



The Spokane Tribal Hatchery has worked to release thousands of rainbow trout and kokanee salmon to recover populations diminished from the creation of Lake Roosevelt and the Coulee Dam. The Tribe has also evaluated the recovery from releases along with native fish community quality through the Fisheries Evaluation Program. (Photos: UCUT's 20 year report).



About ITEP

The Institute for Tribal Environmental Professionals

The Institute for Tribal Environmental Professionals (ITEP) was created to act as a catalyst among tribal governments, research and technical resources at Northern Arizona University (NAU), various federal, state and local governments, and the private sector, in support of environmental protection of Native American natural resources. ITEP was established at NAU in 1992, and accomplishes its mission through several programs.

Tribal Waste and Response Assistance Program (TWRAP):
TWRAP provides training and assistance to tribes in the areas of concern such as solid waste, brownfields, contaminated sites, hazardous materials, underground storage tanks, and emergency response. TWRAP also Coordinates special onsite mentor matches for Tribal Superfund and UST programs.

Tribal Solid Waste Education and Assistance Program (TSWEAP):
TSWEAP is dedicated to providing tribal professionals working in the field of solid waste with trainings, technical assistance, peer-to-peer matching, and on-site mentoring opportunities. Assistance is provided with developing and implementing Tribal Integrated Solid Waste Management Plans, Tribal solid waste codes, and a variety of source reduction and waste diversion strategies.

Air Quality:
ITEP's American Indian Air Quality Training Program (AIAQTP) provides training and educational outreach for tribal environmental staff all over the United States, including Alaska. The various projects and services provided by AIAQTP include: Assisting in the building of tribal capacity for air quality management; Providing high-quality, up-to-date training that is immediately relevant to tribes; Enhancing communication skills to promote collaboration and networking.

Tribal Air Monitoring Support (TAMS) Center:
One of the key components of ITEP's air quality program is the TAMS Center which was created through a partnership between tribes, ITEP and the US EPA. It is the first technical training center designed specifically to meet the needs of tribes involved in air quality management and offers an array of training and support services to tribal air professionals.

Climate Change:
ITEP has developed a resource and training program to address tribal climate change issues. ITEP's efforts strive to help tribes to better understand climate change and to develop strategies for dealing with changing climate patterns through adaptation and mitigation, and emphasizes both science and traditional knowledge.

NEIEN:
ITEP is working with the Tribal Governance Group (TGG) and US EPA's Office of Environmental Information (OEI) to support tribal involvement in the National Environmental Information Exchange Network (NEIEN or " Network"). The NEIEN is a collaborative endeavor that strives to support better environmental decisions through improved exchange of, and access to, environmental data and information. This effort will focus on expanding tribal participation in the NEIEN, which is guided by representatives from States, Territories, Tribes, and US EPA. ITEP will work with tribes to facilitate a unified tribal voice amongst the NEIEN partners, and identify ways to help foster projects and initiatives that are both relevant and sustainable for tribes.

Education and Outreach:
The purpose of the Environmental Education Outreach Program (EEOP) is to interest Native American students in environmental careers and to assist schools in improving environmental science literacy.

National Tribal Water Council:
The NTWC was established to advocate for the best interests of federally-recognized Indian and Alaska Native Tribes, and Tribally-authorized organizations, in matters pertaining to water. It is the intent of the NTWC to advocate for the health and sustainability of clean and safe water, and for the productive use of water for the health and well-being of Indian Country, Indian communities, Alaska Native Tribes and Alaska Native Villages.

ED_002087_00000470-00006

About TWRAP and the TWAR SC

The Tribal Waste and Response Assistance Program (TWRAP)

Since 2008 ITEP has worked in cooperation with the US EPA's Office of Land and Emergency Management (OLEM) on the Tribal Waste and Response Assistance Program (TWRAP). The activities of this program include:

- Working with the TWAR Steering Committee, a Tribal Partnership Group composed of tribal professionals working in the fields of waste management, contaminated sites (including Superfund and federal facilities), Underground Storage Tanks, brownfields, and emergency response programs. This steering committee works closely with ITEP on all tasks associated with this program, and ensure a two-way communication between tribes and OLEM.
- Delivering the annual Tribal Lands and Environment Forum, as well as special trainings. You are at the eighth Forum and we hope you find it interesting and useful!
- Working with the Tribal Superfund Working Group, by coordinating national conference calls, developing special online resources to assist tribal professionals working on Superfund-related issues, and conducting special trainings at Superfund sites affecting tribal lands.
- Conducting ongoing outreach to tribes, through our listserv, the bi-monthly e-newsletter *Full Circle*, and by developing special online resources and mentoring opportunities, including our onsite mentoring project. To learn more about onsite mentoring visit our website at: http://www7.nau.edu/itep/main/Waste/waste_mentors.

The Tribal Waste and Response Steering Committee (TWAR SC)

Since 2009, ITEP has been assisted in our work by the national Tribal Waste and Response (TWAR) Steering Committee. Through in-person meetings, conference calls, and attendance at ITEP events, committee members make sure that both ITEP and OLEM are aware of tribal priorities and concerns. To this end they produce an annual Priority Document that is shared with the National Tribal Caucus and senior management at US EPA. Steering committee members also serve as instructors at ITEP courses, work as mentors to other tribal professionals, provide feedback to ITEP and OLEM on program activities, and make this Forum possible! Thank you to all the steering committee members – past and present – for all their hard work.

- Victoria Flowers, Oneida Nation
- Mark Junker, Sac and Fox Nation of Missouri in Kansas and Nebraska (vice-chair)
- Virginia LeClere, Prairie Band Potawatomi Nation
- Cynthia Naha, Santo Domingo Tribe
- Arvind Patel, Pueblo of Acoma (chair)
- Rob Roy, La Jolla Band of Luiseno Indians
- Rebecca Stevens, Coeur d'Alene Tribe
- John Wheaton, Nez Perce Tribe
- Ann Wyatt, Klawock Native Village

ED_002087_00000470-00007

Agenda ~ At a Glance

Monday, August 13: Training Sessions and Field Trips

Room 302 AB	8:00 am to 12:00 pm: US EPA Spill Prevention Control & Countermeasures Regulation (SPCC) Inspector Short Course 1:00 pm to 5:00 pm: National Incident Management System (NIMS – ICS/Unified Command) Short Course
Room 303 AB	8:00 am to 12:00 pm: Establishing and Enhancing the Brownfields 128(a) Tribal Response Program 1:00 pm to 5:00 pm: Approaching Community Engagement & Brownfields Redevelopment through Indigenous Planning & Interdisciplinary Partnerships
Room 401 AB	1:00 pm to 3:00 pm: Digital Storytelling Strategies for Tribal Environmental Programs 3:00 pm to 5:00 pm Hazardous Waste Identification & Minimization
Room 402 AB	1:00 pm to 5:00 pm: Addressing Meth Problems in Indian Country
Room 402 C	1:00 pm to 5:00: Strengthening Tribal Self-Determination and Self-Governance through the Administration of Environmental Protection Programs
Room 300 C	8:00 am to 5:00 pm: One-on-One Assistance with WQX Submission
Room 300 D	10:00 am to 12:00 pm: Hydrologic and Water Quality System (HAWQS) Modeling 1:00 pm to 5:00 pm: Unmanned Aircraft Systems Flight Training & Part 107 Prep Course
Field Trips: Meet hosts in Riverside Lobby 15 minutes before your trip	8:30 am to 5:00 pm: Visit to the Confederated Tribes of Colville's Recycling Facilities 8:00 am to 5:00 pm: Tour of the Coeur d'Alene Tribe's work on the Bunker Hill Superfund Site 8:00 am to 5:00 pm: Tour of the Spokane Tribe's Water and Habitat Projects 8:00 am to 11:00 am: Visit the Spokane Master Composter Demonstration Site

Tuesday Morning, August 14: Training Sessions and Field Trips

Room 302 AB	8:00 am to 9:45 am: Updates from the ITF & Addressing Open Dumps in Partnership with IHS and US EPA 10:00 am to 12:00 pm: Waste Needs Assessment & Technical Assistance Discussion with US EPA (R 9, 10)
Room 303 AB	8:00 am to 12:00 pm: ATSDR Tools to Engage the Community and Evaluate Hazardous Sites
Room 401 AB	9:00 am to 10:00 am: Emergency Response: FEMA & US EPA Roles & Responsibilities 10:00 am to 11:00 am: US EPA Office of Emergency Management/Nez Perce Oil & Chemical Spills 101 11:00 am to 12:00 pm: BNSF Railway Specialized Resources & Training
Room 402 AB	8:00 am to 12:00 pm: Conducting Effective Compliance Assistance Inspections for UST Owner/ Operator NOTE: Attendees will travel off-site to a Spokane Tribe gas station for a mock inspection
Room 402 C	10:00 am to 12:00 pm: Building a Tribal Mining Program through Collaborations
Room 300 C	8:00 am to 5:00 pm: One-on-One Assistance with WQX Submissions
Room 300 D	8:30 am to 9:45 am: Lights...Camera...Success Stories! The GAP National Pilot 10:00 am to 12:00 pm: Available Tools for Calculating Hydrologic Budget Components on Tribal Lands
Field Trips: Meet hosts in Riverside Lobby 15 minutes before your trip	8:30 am to 11:30 am: A tour of Spokane's Materials and Recycling Technology Center & the Waste-to-Energy Facility 8:00 am to 12:00 pm: A visit to Spokane's Inland Paper Company 8:00 am to 12:00 pm: A walking tour of multiple Brownfields projects along the Spokane River

ED_002087_00000470-00008

Agenda ~ At a Glance

Tuesday Afternoon, August 14: Opening Plenary

1:30 PM-3:00 PM

Exhibit Hall C	Spokane Nation Color Guard, VFW Post 10711 Invocation by Pat Moses, Spokane Tribe Welcoming remarks by Spokane Tribe Council Ann Marie Chischilly, Executive Director of ITEP Arvind Patel, Pueblo of Acoma and Chair of the TWAR Steering Committee Ken Norton, Hoopa Valley Tribe and Chair of the National Tribal Water Council Peter Wright, Senior Advisor to the Administrator, US EPA Plenary Presentation by the Upper Colombia United Tribes

Tuesday Afternoon, August 14: Breakout Sessions

3:30 PM-5:00 PM Break-Out Sessions

Room 302 AB	Self-Evaluation Tools: Judging Your Own Waste Management Practices AND Enhancing Tribal Solid Waste Activities
Room 303 AB	Successful 104(k) Brownfield Competitive Assessment/ Cleanup Grant Proposals AND E-Tools for Tribal Response Programs/ Brownfields and Other Environmental Programs
Room 401 AB	Total Community Engagement Through Conversation Mapping
Room 402 AB	Superfund Task Force Update
Room 402 C	Tank Talk: US EPA and Navajo Nation Oil Storage Programs
Room 300 C	Designing an Integrated, Comprehensive Tribal Water Program
Room 300 D	Water Quality Standards, Fish Consumptions Rates and Tribal Seafood Risk Assessment AND Indigenous Resource Management the Tolowa Dee-ni' Way

Wednesday Morning, August 15: Breakout Sessions

8:30 AM-10:00 AM Break-Out Sessions

Room 302 AB	SMM: Upstream Solutions for Impact! AND Landfills/Transfer Stations 101
Room 303 AB	2018 BUILD Act Changes to CERCLA and the Brownfields Program AND Financial Literacy and Reporting
Room 401 AB	How Tribes Can Develop the Capacity to Implement and Enforce Environmental Programs to Protect Their Natural Resources Under Tribal Law and Federal Law
Room 402 AB	Integrating TEK in Cleanup and Response Programs: Successes, Cautions, and Lessons Learned
Room 402 C	Getting Ready for the October 2018 UST Compliance Deadline
Room 300 C	ATTAINS Tribal Water Quality Reporting Tool AND Identifying/Addressing PFAS in Your Community
Room 300 D	Radionuclides in Drinking Water – the Spokane Tribe's Approach

SPECIAL EVENING EVENTS

Tuesday evening there will be a special drumming and dancing gathering on the Riverside Lawn at 5:30 pm, and on Wednesday evening there will be a screening of **United By Water** as well as an expo of local tribal artists in Exhibit Hall C, from 5:00 to 7:30 pm. See page 38 for more information.

ED_002087_00000470-00009

Agenda ~ At a Glance

Wednesday Morning, August 15: Breakout Sessions

10:30 AM –12:00 PM: Break-Out Sessions

Room 302 AB	Education and Outreach– Talking Trash
Room 303 AB	Tribes and Non-Tribal Partnerships for Environmental Response and Brownfields
Room 401 AB	How Tribes Can Use Citizen Suits and Other Laws to Preserve and Protect the Health and Quality of the Reservation
Room 402 AB	Cultural Perspectives and Resources in Superfund Work: An Open Discussion
Room 402 C	Compliance and Enforcement of UST Regulatory Requirements
Room 300 C	A National Tribal Water Council Listening Session AND Tribal Listening Session: Proposal to Revise the Definition of Waters of the US
Room 300 D	Major Industry Changes in Operator Certification: Is State Certification Suitable to Protecting your Tribe's Public Health and Sovereignty

Wednesday Afternoon, August 15: Breakout Sessions

1:30 PM-3:00 PM: Break-Out Sessions

Room 302 AB	Building a Hazardous Waste Program AND Our First Household Hazardous Waste Collection Event: Highlights and Lessons Learned
Room 303 AB	Coeur d'Alene Tribe's Brownfields Response Program AND Tribal Sustainable Environmental Planning – NEPA and HUD Requirements
Room 401 AB	Assisting Community Sustainability in Small and Rural Populations through the DISC Tool AND Exchange Network and E-Enterprise for the Environment: Updates for Tribes
Room 402 AB	Remedial Investigation Feasibility Study 101
Room 402 C	Do I Really Have to Test That? AND Secondary Containment for USTs– Requirements and Selection
Room 300 C	The Community Engagement Process for Responding to the Gold King Mine Spill
Room 300 D	Brainstorming Ways to Recycle Old Fishing Gear

Wednesday Afternoon, August 15: Multi Media Meetup

3:30 PM-5:00 PM : Exhibit Hall B1/B2

Join us in Exhibit Hall B1/B2 during this breakout period for the Multi Media Meetup. Numerous information tables, demonstrations, and poster presentations will be available for you during this special networking and educational event. See page 27 for more information.

Thursday Morning, August 16: Breakout Sessions

8:30 AM-10:00 AM Break-Out Sessions

Room 302 AB	Trench Composting at Blue Lake Rancheria AND Maximizing Energy from Waste while Minimizing Life Cycle Environmental Burdens and Cost
Room 303 AB	Contracting for Environmental Services
Room 401 AB	Health Issues and Exposure to Environmental Changes AND Lead Awareness in Indian Country: Keeping Our Children Healthy!
Room 402 AB	Preserving Resources While Protecting Tribal Use at Tar Creek Superfund Site AND Cultivating Capacity at Tribal Superfund Sites by Streamlining Human Health Risk Assessment and Natural Resource Damage Assessment and Restoration
Room 402 C	Biofuels and UST Equipment Compatibility
Room 300 C	Oil Transport through the Puget Sound, Columbia River, and Other Inland Waterways AND Yakama Nation HazMat Spill Response Program and Mosier Oil Train Derailment
Room 300 D	Stream Restoration Project: Lessons Learned from Implementing Four Types of Stream Restoration Projects AND Moving Past Planning: Permitting and Implementation of River Restoration with Mixed Jurisdictions

ED_002087_00000470-00010

Agenda ~ At a Glance

Thursday Morning, August 16: Breakout Sessions

10:30 AM-12:00 PM Break-Out Sessions

Room 302 AB	Choctaw Nation Recycling Facility Case Study AND Tire Recycling at Comanche Nation
Room 303 AB	Brightfields on Tribal Lands
Room 401 AB	Building Understanding: Developing Tribal Sovereignty Workshops for Internal and External Partners
Room 402 AB	Superfund Cleanup and Munitions at Federal Facilities
Room 402 C	An Introduction to Cleaning Up Leaking UST Sites AND Tribal Case Study of a UST Cleanup
Room 300 C	Tribal Water Quality and Cyanotoxins: Leading a Multi-Jurisdictional Monitoring Program
Room 300 D	Managing and Financing Septic Systems AND Water Harvesting at Pala Band of Mission Indians

Thursday Afternoon, August 16: Breakout Sessions

1:30 PM-3:00 PM Break-Out Sessions

Room 302 AB	Building for the Environment– Sustainable Materials Management in Building and Deconstruction Projects AND Deconstruction and Green Building: Growing Tribal Communities of Practice
Room 303 AB	Planning for Natural Disaster Debris on Tribal Lands
Room 401 AB	Addressing Risks to Tribal Resources from the Toxics that are Released from Consumer Products AND Pesticides in Tribal Communities: Strategies for Assessing and Reducing Risks
Room 402 AB	Lake Superior Barrels Project: Addressing Environmental Threats in Sacred Waters AND Jackpile Uranium Mine: Updates and Community Involvement
Room 402 C	UST Financial Responsibility Examples
Room 300 C	Tribal Health Impact Assessment for Wild Rice Rule Revisions AND Tribal Conservation Districts
Room 300 D	Incorporating Swinomish Cultural Values into Wetland Assessment and Management AND Swinomish Water Quality Standards, Code Development, and US EPA Approval Process AND Swinomish Water Quality Data– Long Term Trends

Thursday Afternoon, August 16: Closing Plenary

3:30 PM-5:00 PM: Exhibit Hall C

3:30 – 4:00 pm	Final raffle, closing remarks, refreshments
4-00 – 5:00 pm	Special presentation by Casey Mitchell, Nez Perce Tribe Performance by the Rose Creek Drummers

ED_002087_00000470-00011

Detailed Agenda ~ Monday, August 13

Time	Topic	Location

8:00 am – 12:00 pm **Establishing and Enhancing the Brownfields 128(a) Tribal Response Program** **Room 303 AB**

Details: Establishing and Enhancing the Brownfields/128(a) Tribal Response Program (TRP)
An overview of how to Establish the 128(a) TRP-Brownfields program and also how to enhance an established program. A discussion of the issues and problems encountered by tribes and how to implement a successful program for the benefit of the Tribe (s). What technical assistance and training is available to the TRP Coordinators. This is intended for tribal staff with little Brownfield experience as well as those with experience. Outcome will be information sharing and improvements in all TRP program implementation.
Instructor: Mickey Hartnett, KSU-MAP

1:00 pm – 5:00 pm **Community Engagement & Brownfields Redevelopment through Indigenous Planning & Interdisciplinary Partnerships** **Room 303 AB**

Details: This session is part of the National Tribal TAB initiative led by Kansas State University. Specifically, it will introduce participants to key concepts of Indigenous Planning and its role in Brownfields Reuse and Redevelopment. Additionally, there will be hands-on demographic training focused on utilizing U.S. Census information to create population pyramids. This session is comprised of an interdisciplinary team including the University of New Mexico's Indigenous Design + Planning Institute, Kansas State University's Tribal TAB, Eight Northern Indian Pueblo Council, and KSU TAB-affiliated partners as collaborators. The goal of this session is to develop capacity in tribal community engagement, in a neutral setting, using Indigenous participatory techniques that can leverage Tribal Response Programs (TRP) resources and tools. For example, the approach can help stakeholders scope, plan, and implement land re-use decisions based on an agreed set of principles and input from all generations. This and other values-based methods can generate consensus in meeting environmental, economic, cultural, and social needs with brownfields sites involving existing infrastructure, greenspace, and strategic visioning. NOTE: the hands-on training requires a laptop with Microsoft Excel.
Instructors: Michaela Paulette Shirley and Theodora Jojola, UNM; Margaret Chavez, ENIPC; Eugene Goldfarb, UIC; Blase Leven, KSU-TAB

1:00 pm – 3:00 pm **Digital Storytelling Strategies for Tribal Environmental Programs** **Room 401 AB**

Details: Digital storytelling is an approach used in communities worldwide that allows storytellers to produce brief (2-3 minutes) videos blending their own voices, photographs, video clips or music. They are told in the first person about an issue of importance to the storyteller- Your story told and shown from your unique perspective. Illegal dumping continues to plague New Mexico and through a FY2018 NM Recycling and Illegal Dumping Grant, the Santo Domingo Tribe's Natural Resources Department (SDT NRD) is looking for new and innovative ways to help with cleanup and prevention. This funding seeks to gather a collection of short movies from participants that will assist in the sharing of ideas and experiences as the SDT NRD collaborates with Creative Narrations to conduct two (2) digital storytelling workshops for the twenty-two Pueblos and Tribes in NM with a focus on curbing illegal dumping within our homelands. Each participant will create their own 2-3 minute video during the workshop.
Instructor: Cynthia Naha, Santo Domingo Tribe
Moderator: Mansel Nelson, ITEP

3:00 pm – 5:00 pm **Hazardous Waste Identification & Minimization** **Room 401 AB**

Details: Hazardous waste poses a significant threat in tribal communities, especially if the hazardous waste remains unidentified. Recent hazardous waste improvement rules now require generators of waste to preform accurate waste identifications. US EPA has established a strong framework for identifying wastes and determining if they are hazardous. Attendees will participate in hands-on waste identification activities using this framework with commonly used cleaning products which will allow people to identify common wastes in their homes and businesses. Waste minimization efforts will be discussed in order to reduce the regulatory and pollution burden on Tribal Nations, such as that through making safer purchasing choices. Pollution prevention options will be presented to support these efforts.
Instructors: Liz Blackburn, US EPA Region 7
Moderator: Mansel Nelson, ITEP

ED_002087_00000470-00012

Detailed Agenda ~ Monday, August 13

Time	Topic	Location

1:00 pm – 5:00 pm **Addressing Meth Problems in Indian Country** **Room 402 AB**

Details: The use of "Meth" and other drugs in Indian Country has become epidemic and the impacts on tribal communities, health and housing is very serious. This training session will provide information on the problems resulting from the production and use of "Meth" on tribal communities, health issues and impacts on residential structures. The methods and resources available to assess and cleanup the impacts on housing structures and related materials will be discussed to include use of the Tribal Brownfields/Tribal Response Programs and other tribal and federal resources. An Interdisciplinary approach and the coordinated efforts of many tribal programs is critical in addressing the many problems associated with Meth use and production on tribal lands especially coordination between tribal housing, environmental and law enforcement programs. The Outcome of this session is intended to be a better understanding of the problems and the cooperation and interdisciplinary approach needed to address them.
Instructors: Jody Ground, Choke Cherry Consulting LLC and Mickey Hartnett, KSU-TAB
Moderator: Ann Wyatt, Klawok Tribe and TWAR Steering Committee

1:00 pm – 5:00 pm **Strengthening Tribal Self-Determination and Self-Governance through the Administration of Environmental Protection Programs** **Room 402 C**

Details: EPA's 1984 Policy for the Administration of Environmental Programs on Indian Reservations and the 1992 Indian Environmental General Assistance Program Act (GAP) are based on the notion that tribal governments are the appropriate non-Federal parties for making environmental decisions and carrying out regulatory program responsibilities for Indian country. The Policy and GAP continue to guide US EPA in its work with tribes and help US EPA fulfill its mission in a manner that promotes tribal self-government. This session will cover the history and content of the 1984 Indian Policy and the 1992 GAP statute and demonstrate their continuing relevance for enhancing tribal sovereignty today, including building sustainable infrastructure and technical capacity.
Instructor: James M. Grijalva, University of North Dakota School of Law
Moderator: Ann Marie Chischilly, ITEP Executive Director

8:00 am - 12:00 pm **EPA Spill Prevention Control & Countermeasures Regulation (SPCC) Inspector Course** **Room 302 AB**

Details: The purpose of the SPCC rule is to help facilities prevent a discharge of oil into navigable waters or adjoining shorelines. The SPCC rule requires facilities to develop, maintain, and implement an oil spill prevention plan, called an SPCC Plan. Instructor will use a combination of lecture, case study examples, and interactive discussions to acquaint participants with the tools and resources available that will assist them in inspecting (oil storage) SPCC facilities for compliance with rule requirements. This class is a shorter version (and does not substitute for) the 40-hour course which is a program-specific training requirement for oil inspectors, other US EPA personnel, grantees, or contractors conducting compliance monitoring activities associated with 40 CFR part 112 (such as oil inspections or exercises).
Instructor: Mark Howard, US EPA

1:00 pm – 5:00 pm **National Incident Management System (NIMS - ICS/Unified Command) Short Course** **Room 302 AB**

Details: Participants will learn the basics of emergency response operations and organization from EPA and FEMA. Discussion of how local, state, tribal, and federal agencies respond to incidents and how partners fit into Unified Command with participant input will be encouraged. Class will follow FEMA NIMS on-line training but will allow for additional material from all representatives/instructors.
Instructors: Nick Nichols, US EPA and FEMA representative

8:00 am– 5:00 pm **One-on-one Assistance with WQX Submission** **Room 300 C**

Details: One-on-one appointments can be made to receive both WQX Web and WQX/Node submitting assistance. Each appointment will review the Tribe's data, identify submission challenges and work to submit data and/or set up a plan to follow-up with the Tribe to resolve any outstanding issues. We also welcome other non-appointment visits, as we can still discuss data questions and set up a plan for follow-up as well. To schedule an individual appointment please email STORET@epa.gov. In the subject line write **WQX Appointment Request**. Include in your email message the following information: Tribe's Name; Primary Contact Name; Primary Contact Phone; Primary Contact Email; Your 1st, 2nd, & 3rd time preferences for appointments; If you know your Org ID & User ID, please include that information as well; a summary of the assistance you will require.
Instructor: Laura Shumway, US EPA

ED_002087_00000470-00013

Detailed Agenda ~ Monday, August 13

Time	Topic	Location

10:00 am– 12:00 pm Hydrologic and Water Quality System (HAWQS) Modeling Room 300 D

Details: The Hydrologic and Water Quality System (HAWQS) is a web-based interactive water quantity and quality modeling system that employs as its core modeling engine the Soil and Water Assessment Tool (SWAT). The session will walk users through HAWQS' interactive web interfaces and maps; pre-loaded input data; outputs that include tables, charts, and raw output data; a user guide, and online development, execution, and storage of a user's modeling projects. Participants should have some water quality modeling experience or familiarity of the process of development of models. The participants will be guided through an example project allowing users to understand the workflows of projects in HAWQS.
Instructors: Arndt Gossel and Stephen Muela, ORISE Fellows
Moderator: Elaine Wilson, ITEP

1:00 pm– 5:00 pm Unmanned Aircraft Systems Flight Training & Part 107 Course Room 300 D

Details: This is an introduction to the use of the tools, resources and information to achieve 40 hours training and certification goals how to fly professional-grade UAS manually and autonomously. Students will gain industry knowledge, real time demonstration of an actual drone in operation. In a real world experience aides in conducting search & rescue missions, inspection/assessments in extreme hazardous conditions, data collections and GIS data processing, real time aerial photographing, deploying sensors in remote areas. Assisting other local agencies, Tribal Resources, THPO, and Law Enforcement.
Instructor: Quinton Jacket, Ute Mountain Ute Tribe
Moderator: Riley Smith, Makah Tribe

8:00 am – 5:00 pm FIELD TRIP Tour of the Coeur d'Alene Tribe's work on the Bunker Hill Superfund Site Riverside Lobby

Details: The Bunker Hill Mining and Metallurgical Complex Site in North Idaho was listed on the National Priorities List as a Superfund Site in 1983., and as the site lies within the heart of the Coeur d'Alene Tribe's aboriginal homeland, the Tribe has been actively involved in the technical and leadership level in both EPA's remedial process and Natural Resource Damage Assessment. Please wear close toed shoes, and bring water, camera, bagged lunch or money to eat at the legendary Snakepit!

8:00 am – 5:00 pm FIELD TRIP: Tour of Spokane Tribe's Water and Habitat Projects Riverside Lobby

Details: Employees of the Tribe's Water and Fish Program developed a special field trip highlighting their work to protect Tribal waters – and all that rely on this vital source of life. Four different stops will allow attendees to visit the Tribe's creek restoration projects, fish hatchery, oxygen monitoring activities in lakes, evaluations of tributaries to the Spokane and Columbia Rivers, and native vegetation work. Please bring comfortable walking attire, a hat, sunscreen, and plenty of water.

8:00 am – 10:00 am FIELD TRIP and TRAINING at the Spokane Master Composter Demonstration Site Riverside Lobby

Details: The City of Spokane offers the Master Composter Certification for community members. This successful Master Composter and Recycler Program has been in effect since 1988. Volunteer Master Composters and Recyclers play an active role in Spokane County's Regional Solid Waste System by teaching citizens how to reduce waste through recycling and home composting. On this tour you will learn about the program through a presentation, hear from the community master composters, and tour the green zone, the home composting demonstration area. You may even be asked to turn a compost pile! Please make sure to bring comfortable walking attire, a hat, sunscreen, and plenty of water.

8:30 am – 5:00 pm FIELD TRIP Visit to the Confederated Tribes of Colville's Recycling Facilities Riverside Lobby

Details: The Colville Confederated Tribes established a recycling center in 2008 which has continued to grow and evolve, becoming an exceptional resource for the Tribes (diverting significant amounts of recyclables from the waste stream, providing good employment for Tribal members, generating revenues through proactive market research, and protecting Mother Earth). Attendees will tour an extremely successful recycling operation, learn about equipment and staffing needs, and have a chance to talk with Tribal recycling specialists about how they can develop or expand their own recycling operations. Please wear close toed shoes, and bring water, camera, bagged lunch or money to eat at the Tribe's casino restaurant.

ED_002087_00000470-00014

Detailed Agenda ~ Tuesday, August 14

Time	Topic	Location

8:00 am – 9:45 am **Updates from the ITF & Addressing Open Dumps in Partnership with IHS** **Room 302 AB**

Details: In the first part of this training attendees will learn about the multi-agency tribal Infrastructure Task Force's (ITF) work to develop and coordinate federal activities in delivering water infrastructure, wastewater infrastructure and solid waste management services to tribal communities. The ITF created a Waste Programs Sub-workgroup to identify and address programs, initiatives, and other issues that will improve planning construction, operation, and maintenance of sustainable infrastructure on tribal lands. Three Work Teams worked on the following issues: Team 1: "Barriers and Potential Resources to Solid Waste Implementation in Indian Country," Team 2: "Community Engagement Strategy," and Team 3: "Proposed Approach to Improve Open Dumps Data and Solid Waste Projects and Programs in Indian Country." A representative from each Work Teams will present on the work that is being completed or that has been achieved thus far. The second part will focus on how the Indian Health Service and the US EPA have entered a partnership through a Memorandum of Understanding to better coordinate their efforts in the areas of solid waste projects, programs, and open dump data. This discussion will cover the current state of implementation of this MOU on open dump data and solid waste projects and programs. Attendees will also be provide with an understanding of how Tribes can seek funding for open dump and solid waste projects through the Sanitation Deficiency System (SDS) process; how the SDS scores and ranking criteria are determined; how Tribes can best work with IHS to update, delete, or add new projects to SDS.
Instructors: Rob Roy, La Jolla Band of Luiseno Indians; Kami Snowden, TSWAN; Kim Katonica and Charles Reddoor, US EPA; Ben Shuman, IHS
Moderator: Rob Roy, La Jolla Band of Luiseno Indians and TWAR Steering Committee

10:00 am – 12:00 pm **Waste Needs Assessment & Technical Assistance Discussion with EPA Regions 9 and 10** **Room 302 AB**

Details: The focus of this interactive listening session will be for Tribal representatives to provide feedback to Tribal Waste program staff at EPA on what technical assistance means to Tribes, their past experiences with EPA technical assistance, and what types of technical assistance that they would like to receive from EPA. Staff from the EPA's Tribal Waste programs in Regions 9 and 10 will facilitate this session, listen to feedback, and provide information on their Region's approaches on technical assistance on solid and hazardous waste management. This information exchange will allow EPA staff to learn where technical assistance and programmatic interventions have been and/or could be the most useful. These conversations will help to ensure that EPA's technical assistance on solid and hazardous waste management is meeting the needs of Tribes and for Tribes to give feedback to inform future work.
Instructors: Kristy Fry, Angel Ip, Ted Jacobson, Rick McMonagle, US EPA Region 10; Deirdre Nurre, US EPA
Moderator: Rob Roy, La Jolla Band of Luiseno Indians and TWAR Steering Committee

9:00 am – 10:00 am **Emergency Response: FEMA & EPA Roles & Responsibilities** **Room 401AB**

Details: Federal Program representatives will explain how FEMA and US EPA respond to natural events and accidental releases and spills. Similarities and differences in how tribes interact with US EPA and FEMA will be discussed. Update on FEMA and EPA emergency management operations and regulations.
Instructors: Nick Nichols, US EPA and FEMA representative

10:00 am – 11:00 am **US EPA Office of Emergency Management/Nez Perce Tribe Oil & Chemical Spills 101** **Room 401 AB**

Details: Presenters will explain how the Nez Perce Tribe and US EPA prevent, plan, and respond to oil and chemical releases and spills. Notification, area planning, Unified Command, and tribal roles and responsibilities when emergencies occur will be discussed. Presentation will include how the National Response Team and National Response System utilize preparedness and response authorities, resources, and the capabilities of the System and the member agencies.
Instructors: John Wheaton, Nez Perce Tribe and TWAR Steering Committee; Nick Nichols, US EPA

11:00 am – 12:00 pm **BNSF Railway Specialized Resources & Training** **Room 401AB**

Details: Participants will be introduced to Response Resources provided by BNSF for Planning, Preparedness and Response along with Specialized Training offered to First Responders.
Instructor: James Farner, BNSF Railway
Moderator: Cynthia Naha, Santo Domingo Tribe and TWAR Steering Committee

ED_002087_00000470-00015

Detailed Agenda ~ Tuesday, August 14

Time	Topic	Location

8:00 am – 12:00 pm ATSDR Tools to Engage the Community and Evaluate Hazardous Sites **Room 303 AB**

Details: In this interactive session, participants will learn about tools and resources created by the Agency for Toxic Substances and Disease Registry (ATSDR) Brownfields/Land Reuse Program. Community health is an important part of land revitalization. To encourage healthy redevelopment ATSDR creates resources to help communities consider health in revitalization plans. In this session, Captain Gary Perlman, an integral member of the ATSDR Land Reuse Team, will demonstrate and describe four ATSDR resources designed to improve community health and engage communities in land reuse plans. The first resource is the ATSDR Brownfields/Land Revitalization Action Model, a four-step framework to engage communities in land reuse planning. Through brainstorming, the Development Community -all those with a vested interest in revitalization, work through four steps: 1. Identify community issues, 2. suggest revitalization strategies to address issues, 3. discuss corresponding health benefits, and 4. create indicators to measure changes in overall community health status over time. Over 20 communities have used the Action Model, leading to what ATSDR believes is one of the first sets of public health indicators associated with redevelopment.
Instructor: Gary Perlman, ATSDR
Moderator: Ann Wyatt, Klawok Tribe and TWAR Steering Committee

8:00 am – 12:00 pm Conducting Effective Compliance Assistance Inspections for UST Owner/ Operator **Room 402 AB**

Details: This special training will provide a hands-on training for tribal professionals interested in providing compliance assistance to their UST owner/operators, especially as the deadline for new regulations is coming up in October of this year. Attendees will meet in training room 402AB, and then depart at 9:00 am for a local UST facility, where they will walk through a compliance assistance inspection, learn useful strategies on how to effectively conduct these inspections, and share their own approaches with colleagues. Please note you will need to sign up in advance for this training and site visit. All attendees should wear close toed shoes. Safety vests will be provided but attendees are encouraged to bring theirs if they have them.
Instructors: Ben Thomas, UST Training, and Victoria Flowers and Mike Arce, Oneida Nation

8:30 am – 9:45 pm Lights...Camera...Success Stories! GAP National Pilot **Room 300 D**

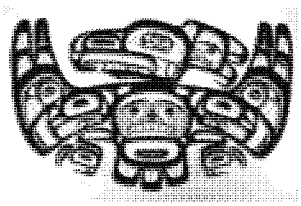
Details: The Indian Environmental General Assistance Program (GAP) helps tribes develop a range of environmental program capacities – from water quality monitoring to emergency response. One way of demonstrating the breadth and value of GAP funding is through tribal success stories. This session will focus on the recent pilot conducted by EPA's American Indian Environmental Office with tribal and regional staff to support development of a new, national system for collecting and sharing GAP success stories. Session attendees will hear from pilot participants, learn about next steps, and have the opportunity to share suggestions with AIEO leadership.
Instructors: Felicia Wright and Lisa Berrios, US EPA
Moderator: Rebecca Stevens, Coeur d'Alene Tribe and TWAR Steering Committee

10:00 am – 12:00 pm Available Tools for Calculating Hydrologic Budget Components on Tribal Lands **Room 300 D**

Details: Using existing national-scale data and models, the USGS and Salish Kootenai College recently estimated mean annual precipitation, evapotranspiration, excess precipitation, streamflow, and water use for the period 1971-2000 for all tribal lands in the conterminous US. This session will introduce the datasets used for this analysis, how budget components were calculated, results of the analysis, and how the results may be used in water resources management. Participants will be shown additional USGS tools that may be used to manage water resources, especially streamflow, for items such as infrastructure protection and tracing the source of water that flows onto or adjacent to Tribal lands.
Presenter: Stephen Hundt, US Geological Survey Idaho Water Science Center
Moderator: Rebecca Stevens, Coeur d'Alene Tribe and TWAR Steering Committee

8:00 am – 12:00 pm One-on-one Assistance with WQX Submission **Room 300 C**

Details: Please see details on page 12



ED_002087_00000470-00016

10:00 am – 12:00 pm Building a Tribal Mining Program through Collaborations Room 402 C

Details: Back by popular demand! This presentation will provide an overview of tribal mining issues, using hands on activities, and provide perspective and examples of collaboration and partnerships (internally and externally) which have helped shape the Tohono O'odham Mining program, as well as to take a look at potential future cooperative opportunities, including workgroups, funding, outreach, and education. As part of this course you will come to understand basic mining information including life cycle of a mine; learn some history related to mining on tribal lands; be able to differentiate between modern and legacy mining practices; understand some positive and negative impacts of mining unique to tribal communities; and have the chance to discuss ideas about partnering and collaboration, as well as participate in hands-on activities.
Instructor: Laurie Suter, Tohono O'odham Nation
Moderator: Christine Poore, USEPA Headquarters

8:30 am – 12:00 pm FIELD TRIP A tour of Spokane's Materials and Recycling Technology Center & the Waste-to-Energy Facility Riverside Lobby

Details: Tour Spokane's Materials and Recycling Technology Center and Spokane's Waste to Energy (WTE) Facility, which can process 100,000 tons of recyclables per year and is the centerpiece of a regional strategy aimed at dramatically reducing waste and boosting recycling in the area. On this tour participants will learn the environmental reasons Spokane County turned to WTE to process its trash 27 years ago and how it has remained the principal means of disposal since. All visitors are required to wear close toed shoes and should dress for the weather. Hard hats and safety glass will be provided. Expect some moderate walking and standing on hard surfaces.

8:00 am – 12:00 pm FIELD TRIP Visit to Spokane's Inland Paper Company Riverside Lobby

Details: Field trip participants will be guided through the entire system starting with the warehouse that houses recycled materials in raw form, describing how they get the materials, what contaminants are present, and the research and development processes they have used to discover new technologies for tertiary treatment of the effluent. The tour will also include a viewing of the effluent system and the chip yard followed by a tour of the paper machine where pulp is made into sheets, dried and cut into printer size rolls. Field trip participants must wear long pants and closed toed shoes (no sandals or flip flops).

8:00 am – 12:00 pm FIELD TRIP A walking tour of brownfields projects along the Spokane River Riverside Lobby

Details: This walking tour will take you along the Spokane River to visit the Kendall Yards business and residential district, the university district, and the riverfront park brownfields redevelopment. After crossing the river a presentation on Spokane's brownfields program, local Tribal involvement, and brownfields funding sources will be given. This fieldtrip will take place on Tuesday morning from 8:00am-12:00pm. Please make sure to bring comfortable walking attire, a hat, sunscreen, and plenty of water (~2 miles of walking). Accommodations are available; please let us know in advance.

1:30 pm ~ 3:00 pm ..... Opening Plenary Session ..... 1:30 pm ~ 3:00 pm

1:30 - 1:45 pm **Spokane Nation Color Guard** **Exhibit Hall C**

1:45 - 2:25 pm **Welcoming Remarks and Invocation**
Pat Moses, Spokane Tribe
Representative from the Spokane Tribe
Ann Marie Chischilly, ITEP Executive Director
Arvind Patel, Pueblo of Acoma and Chair of the TWRAP Steering Committee
Ken Norton, Hoopa Valley Tribe and Chair of the National Tribal Water Council
Peter Wright, Senior Advisor to the Administrator, US EPA

2:25 - 3:00 pm **Featured Presentation**
Upper Columbia United Tribes (UCUT)

ED_002087_00000470-00017

3:30 pm - 5:00 pm ..... Breakout Sessions ..... 3:30 pm - 5:00 pm

Self-evaluation Tools: Judging Your Own Waste Management Practices AND Enhancing Tribal Solid Waste Activities

~ Room 302 AB ~

Details: This presentation will explain the Waste Indexes that the Alaska Department of Environmental Conservation Developed for scoring the landfill (all Types) in Alaska with number values and easily understandable scoring criteria. This makes it easy to see what steps to take to improve conditions and improve public health by minimizing solid waste issues in a step by step manor. This will cover multiple categories of waste handling and infrastructure. This should be very interesting and FUN…
Presenter: Ted Jacobson, US EPA/SEE

Details: Participants will learn of the initiatives the Pueblo of Acoma Solid Waste Management Department is taking to improve operations and the facilities for solid waste collection, transport and disposal of solid waste. We will discuss the recent operational enhancements we have undertaken as well as the plans for the development of a new community transfer station using a combination of EPA Gap funds, Tribal funds and private funds/partnerships for the facility development.
Presenter: Arvind Patel, Pueblo of Acoma

Moderator: Arvind Patel, Pueblo of Acoma and TWAR Steering Committee

Total Community Engagement Through Conversation Mapping

~ Room 401 AB ~

Details: This session includes a short teaching element coupled with hands-on work. Participants will prepare Conversation Maps working in groups of 8-10. They will complete the session by analyzing their own Maps so they understand how to use them within their own Tribal context. Conversation Mapping is a tool that teaches participants how to quickly gather ideas and identify barriers and unspoken concerns. It is a new way of approaching difficult issues. This tool helps break through hierarchies and gives even the quietest an equal voice. The Conversation Map is triggered with a topic of concern and will be most productive when worked on by a diverse and interdisciplinary group. Conversation Maps promote civil disagreements and debate, but remember, your pen is your voice: no talking.
Presenters: Sarah Diefendorf, EFCWest

Moderator: Cynthia Naha, Santo Domingo Tribe and TWAR Steering Committee

Successful 104(k) Brownfield Competitive Assessment/ Cleanup Grant Proposals AND E-Tools for TRP/ Brownfields and Other Environmental Programs

~ Room 303 AB~

Details: US EPA provides several types of annual Brownfield grants for assessment or cleanup of Brownfield sites under 104(k) of CERCLA. These are very competitive grants and are awarded to tribes, communities and non-profits across the country. This session will provide hints on how to craft a competitive proposal and successful tribes will share their experience in obtaining these grants. The intended outcome is for more tribes to be successful in obtaining these grants.
Presenters: Mickey Hartnett and Blase Leven, KSU-TAB

Details: The Kansas State University Technical Assistance to Brownfields program is developing several internet-computer based tools for Tribal Response Programs (and other tribal environmental programs) to enhance their program capabilities and capacity. These include: Enhancing the Brownfield Information Toolbox (BIT) with EPA ACREs interface; A Tribal Brownfields Forum for online discussion of brownfield and other TRP issues; A TRP/Brownfields App for gathering and downloading information from the field and other enhancements for mapping, information gathering and management. Participants will learn how to utilize computer and other electronic media to enhance and increase the capacity of their program.
Presenters: Dr. Cynthia Annett and Blase Leven, KSU-TAB
Moderator: Mickey Hartnett, KSU-TAB

Tank Talk: US EPA and Navajo Nation Oil Storage Programs

~ Room 402 C ~

Details: A presentation and discussion of the US EPA Office of Emergency Management Spill Prevention Control and Countermeasures Program and the Office of Land and Emergency Management's Underground Storage Tank regulations, policies, and inspection programs. Navajo Nation's Leaking Storage Tank Program will discuss their unique aboveground and underground tank program. You will learn the major differences between federal oil spill prevention and remediation regulatory programs. Be prepared to learn, ask questions, and engage in a discussion.
Presenters: Warren Roan and Tanya Yazzie, Navajo Nation; Nick Nichols and Mark Barolo, US EPA
Moderator: Victoria Flowers, Oneida Nation and TWAR Steering Committee

3:30 pm - 5:00 pm ..... Breakout Sessions ..... 3:30 pm - 5:00 pm

Designing an Integrated, Comprehensive Tribal Water Program

~ Room 300 C~

Details: The Prairie Band Potawatomi Nation has a captivating story about integrating its wetlands, 106 monitoring, and 319 watershed programs into a comprehensive water program. EPA Region 7 has developed a series of tools to help tribal partners efficiently meet program needs and water quality goals with increasingly limited EPA funding. These tools include the cross-program funding matrix, ESTP Tiering Chart, and grants/communication best practices. After this session, participants will be able to use the Prairie Band Potawatomi Nation's example and the Region 7 tools to brainstorm ways to integrate Enhancing State and Tribal Programs (ESTP) with their water 106, water 319, and wetlands programs into a comprehensive water program.
Presenters: Verna Potts and Ma'Ko'Quah Jones, Prairie Band Potawatomi Nation; Heather Duncan and Eliodora Chamberlain, US EPA Region 7

Moderator: Rob Roy, La Jolla Band of Luiseno Indians and TWAR Steering Committee

Superfund Task Force Update

~ Room 402 AB~

Details: On July 25, 2017, US EPA's Superfund Task Force released its list of 42 recommendations. The recommendations address: expediting cleanup and remediation process; reducing financial burden on all parties involved in the entire cleanup process; encouraging private investment; promoting redevelopment and community revitalization; and, building and strengthening partnerships. The Office of Superfund Remediation and Technology Innovation (OSRTI) is directly involved in a number of recommendations and related initiatives such as creating the Administrator's Emphasis List, broadening the use of Adaptive Management, ensuring national consistency, and clarifying the principles of groundwater restoration. This session will provide a broad update on OSRTI-led recommendations as well as an update on how OSRTI will be engaging tribes on the recommendations.
Presenters: Christine Poore and Amanda Van Epps, US EPA

Moderator: Rebecca Stevens, Coeur d'Alene Tribe and TWAR Steering Committee

Water Quality Standards, Fish Consumptions Rates and Tribal Seafood Risk Assessment AND Indigenous Resource Management the Tolowa Dee-ni' Way

~ Room 300 D~

Details: For tribes and tribal members, consumption of fish, and in particular salmon, is an important aspect of tribal economies, culture, spirituality, and society. Water quality affects the health of fish populations, the level of contaminants in fish, and the consequent health risks posed by these contaminants to tribal members when they consume fish. This session will discuss: the role of fish consumption rates (FCRs) in the development of ambient water quality criteria (AWQC) for the protection of human health; fish consumption surveys and the derivation of appropriate FCRs; and risk assessment of the hazards high fish consuming populations may face.
Presenters: Lon Kissinger and Mary Lou Soscia, US EPA Region 10

Details: This presentation will focus on Tolowa Dee-ni' Nation's newly drafted Harvest Title (a unique governing document for the management marine resources based on cultural practices, traditional stewardship, and restorative justice), our Traditional Knowledge Database (a database we created to house all traditional knowledge in geospatial and aspatial formats), and our marine monitoring efforts that inform both the Title and Database (monitoring includes: biotoxins, smelt habitat, sea star health & abundance, biodiversity and perch populations).
Presenters: Rosa Laucci and Megan Van Pelt, Tolowa Dee-ni' Nation

Moderator: Elaine Wilson, ITEP

8:30 am ~ 10:00 am ..... Breakout Sessions ..... 8:30 am~ 10:00 am

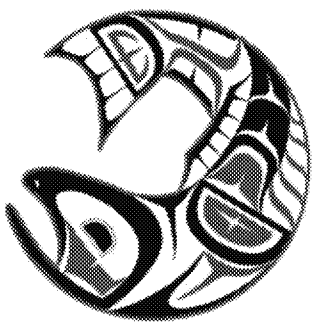
SMM: Upstream Solutions for Impact! AND Landfills/Transfer Stations 101

~ Room 302 AB~

Details: Sustainable Materials Management looks at the downstream benefits of upstream materials solutions; by asking questions about the types of materials we use and how they impact our waste streams we can create government policy to drive down the impacts of those materials. Something as simple as conducting a waste audit and discovering a high volume of a problematic material, like plastic film; then using that data to create a policy to reduce the amount of that material through ordinances, and outreach. Presenter(s) will share a presentation about Sustainable Materials Management and success stories of tribes and local governments who have utilized Sustainable Materials Management to lessen the burden of materials in their end of life.
Presenters: Kristy Fry, US EPA Region 10 and Deirdre Nurre, US EPA Region 9

Details: The objective of this session is to provide information that will assist tribal communities with a basic understanding of Municipal Solid Waste Landfills and Transfer Stations. The Landfills section topics will cover: What types of landfills are there? Why would I want a landfill on tribal lands? What are the benefits and risks of a tribal landfill; and how do we maximize landfill profits? The Transfer Station section will cover the following topics: What is a transfer station? Why use a transfer station? How do I estimate the size of a transfer station? What are the benefits of having a transfer station on tribal lands, tribal transfer station success stories, and how can we afford a transfer station?
Presenters: Craig Dufficy, US EPA

Moderator: Cynthia Naha, Santo Domingo Tribe and TWAR Steering Committee



Integrating TEK in Cleanup and Response Programs: Successes, Cautions, and Lessons Learned

~ Room 402 AB~

Details: This session will explore how TEK can be incorporated into EPA cleanup and response projects and actions, in the event a tribe chooses to share this information with EPA. Presenters will discuss the sensitivities around provision of TEK as well as the important benefits this knowledge can bring to a decision, program or action. Panel members will discuss real examples of how TEK was considered during cleanup and response actions. Region 10 TEK workgroup members will discuss the multi-year process they undertook to develop a culturally sensitive training to introduce the concept of TEK to Region 10 staff, including key issues related to the handling of TEK and how to develop an informed and transparent process that benefits both EPA and the tribe. Participants are invited to join a dialogue about the implementation of the Office of Land and Emergency Management (OLEM) TEK Memo (signed in January 2017) and provide feedback about how TEK is considered in their Region, describe lessons learned and best practices, discuss opportunities to replicate successful programs, and identify what resources are needed to help tribes, EPA Regions and EPA HQ successfully integrate TEK in cleanup and response programs.
Presenters: Elizabeth Sanchey, Yakama Nation; Kent Benjamin, US EPA; Wenona Wilson, and Joanne Moore, US EPA Region 10; Rick Eichstaedt, Region 10 RTOC

Moderator: Ann Wyatt, Klawok Tribe and TWAR Steering Committee

How Tribes can Develop the Capacity to Implement and Enforce Environmental Programs to Protect their Natural Resources under Tribal Law and Federal Law

~ Room 401 AB~

Details: The session will describe how Tribes can build capacity to successfully assert claims to protect their natural resources under federal and tribal law.
Presenters: Richard Du Bey and Brian Epley, Ogden Murphy Wallace, PLLC

Moderator: Elana Zana, Ogden Murphy Wallace, PLLC

ED_002087_00000470-00020

8:30 am - 10:00 am ..... Breakout Sessions ..... 8:30 am - 10:00 am

2018 BUILD Act Changes to CERCLA and the Brownfields Program AND Financial Literacy and Reporting

~ Room 303 AB~

Details: This session will inform attendees of the 2018 statutory amendments to CERCLA that provide additional opportunities and incentives for states, tribes, local governments, and non-profits to acquire, assess, and cleanup brownfields properties and promote economic development and community revitalization.
Presenter: Patricia Overmeyer, US EPA

Details: This session will discuss rules and regulations, work plans, grant terms and conditions, how to get reimbursed, keep your files audit proof, what files to maintain, team work, ACRES, quarterly reporting , final reports.
Presenters: Dale Mitchell, Passamaquoddy Tribe; Sean O'Brien Penobscot Indian Nation; AmyJean McKeown, US EPA Region 1

Moderator: Mark Junker, Sac and Fox Nation of Missouri in Kansas and Nebraska and TWAR Steering Committee

Getting Ready for the October 2018 UST Compliance Deadline

~ Room 402 C~

Details: This presentation will get UST operators and inspectors prepared for the new EPA UST regulations deadline of October 13, 2018. Learn about operator training, sump and spill bucket testing, leak detection certification, biofuel compatibility and more. Also hear suggested compliance strategies to avoid common pitfalls from speaker Ben Thomas who will share his 30 years experience in the UST world.
Presenter: Ben Thomas, UST Training

Moderator: Victoria Flowers, Oneida Nation and TWAR Steering Committee

NewFields

- Client focused engineering & environmental firm with offices in 9 states
- Successfully worked with tribes for more than 10 years
- Tribal focus areas: Brownfields, Hazardous Waste, Water Resources, and Utility Corridors
- Clients include:
  - Confederated Salish & Kootenai Tribes
  - Northern Cheyenne Tribe
  - Fort Peck Tribes
  - Blackfeet Nation
  - Fort Belknap Indian Community

Visit with NewFields staff at the:
•Hazardous Waste Presentations
(Wednesday August 15th, 1:30pm-3:30pm)
•Multimedia Meetup
(Wednesday August 15th, 3:00pm-5:00pm)
Come see us at the Exhibitor Area

Contact:
Adam Johnson
Missoula, Montana
(406) 549-8270
ajohnson@newfields.com

Thank You to Our Silver Level Sponsor!

8:30 am ~ 10:00 am ····· Breakout Sessions ····· 8:30 am ~ 10:00 am

Radionuclides in Drinking Water – the Spokane Tribe's Approach

~ Room 300 D~

Details: This session will discuss the history of addressing contamination in drinking water from unregulated sources on the Spokane Reservation. The presentation will include methodology and findings from a recent water testing collaboration between the Spokane Water and Fish Program, the National Tribal Water Center and the Centers for Disease Control. Participants will gain insight on developing a plan to assess water quality, carrying out a testing project and applying the acquired data to develop a strategy to mitigate contamination.
Presenters: Brian Crossley, Spokane Tribe; James Temte and Bailey Gamble, ANTHC

Moderator: John Wheaton, Nez Perce Tribe and TWAR Steering Committee

ATTAINS Tribal Water Quality Reporting Tool AND Identifying and Addressing PFAS in Your Community

~ Room 300 C~

Details: The session will start with a review of the ATTAINS pilot project status, a brief demo of ATTAINS, current water quality results from the pilot and will wrap up with a testimonial from Micah Issacs from Citizen of Potawatomi Nation on his experience with ATTAINS.
Presenter: Laura Shumway, US EPA

Details: This session will provide an overview of EPA's current activities addressing per- and polyfluoroalkyl substances (PFAS) and include a brief discussion on PFAS-related issues, including identifying PFAS, solutions for addressing PFAS, and communicating PFAS.
Presenter: Jennifer McLain, US EPA

Moderator: Lydia Scheer, ITEP

Thank You to Our Silver Level Sponsor!

10:30 am - 12:00 pm ..... Breakout Sessions ..... 10:30 am - 12:00 pm

Education and Outreach– Talking Trash

~ Room 302 AB ~

Details: Tribal solid waste managers have the task of reducing litter and open dumping, and promoting recycling, reuse, and source reduction activities. Each one of these activities requires some behavioral change by tribal members. The primary mechanism for achieving this change is environmental education that leads to action. This presentation will review a variety of education resources available for planning education and outreach activities for schools and communities.

Presenter: Mansel Nelson, ITEP

Moderator: Ann Wyatt, Klawok Tribe and TWAR Steering Committee

How Tribes Can Use Citizen Suits and Other Laws to Preserve and Protect the Health and Quality of the Reservation

~ Room 401 AB ~

Details: Nick Thomas and Andrew Fuller, of Ogden Murphy Wallace, PLC and members of the Tribal Government Practice Group will be presenting during this participatory session. Following the presentation, attendees will be asked to participate and role play in an effort to allow them to apply the information presented in this session. Other members of the Tribal Government Practice Group will participate in this workshop.

Presenters: Andrew Fuller and Nick Thomas, Ogden Murphy Wallace, PLLC

Moderator: Richard Du Bey, Ogden Murphy Wallace, PLLC

Tribes and Non-Tribal Partnerships for Environmental Response and Brownfields

~ Room 303 AB ~

Details: Tribes that work with nontribal entities, such as state programs, nonprofits, cities, technical assistance providers, and Federal agencies will yield the best results in the implementation of environmental programs, as well as conservation, preservation, public safety, cultural heritage and economic development. This beginner's session highlights successful partnerships across the West.

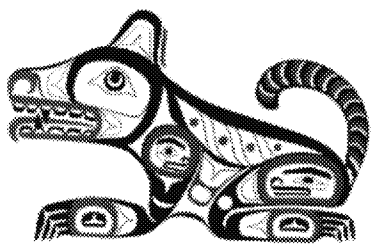
Presenter: Mike Henry, Lily Bermejo, Joy Britt, and Ignacio Dayrit, CCLR

Cultural Perspectives and Resources in Superfund Work: An Open Discussion

~ Room 402 AB ~

Details: How do you, or how does your Tribe, ensure cultural values, protect cultural resources, incorporate cultural knowledge, in your monitoring, remediation, or restoration activities at your contaminated site? Have you had any particular successes, faced any particular obstacles, or developed any particular strategies you want to share? Members of the Tribal Superfund Working Group advisory council will begin this special Talking Circle session with stories from their work at their sites, and then all attendees are invited to share their own stories. It will be moderated by members of the Tribal Superfund Working Group advisory council and staff from ITEP.

Moderator: Tribal Superfund Working Group Advisory Council members and ITEP staff



ED_002087_00000470-00023

10:30 am ~ 12:00 pm ..... Breakout Sessions ..... 10:30 am~ 12:00 pm

Major Industry Changes in Operator Certification: Is State Certification Suitable to Protecting Your Tribe's Public Health and Sovereignty?

~ Room 300 D ~

Details: The Safe Drinking Water Act (SDWA) sets the minimum federal baseline rules and regulations a public water system must meet. In 2017, the national standardized exams for water and wastewater operator certification were revised. These new standardized certification exams no longer test for operator knowledge of the applicable public health rules and regulations. Some state operator certification agencies are transitioning to the new 2017 standardized exams by requiring candidates to take state-specific regulatory training as a condition of certification eligibility (in-lieu of testing for operator knowledge of applicable public health regulations and rules). In this session, participants will learn how these major changes affect Tribal utilities and how the ITCA National Tribal Operator Certification Program is responding in order to protect Tribal sovereignty.
Presenter: Brian Bennon, ITCA

Moderator: Mansel Nelson, ITEP

Compliance and Enforcement of UST Regulatory Requirements

~ Room 402 C~

Details: This session will provide an overview of common compliance challenges at UST facilities in Indian country, what's required for the upcoming October 13, 2018 deadline, available tools to help with compliance, and what happens when there is noncompliance at an UST facility.
Presenter: Susan O'Keefe and Tony Raia, US EPA; Mallory Miller, US EPA Region 4

Moderator: Victoria Flowers, Oneida Nation and TWAR Steering Committee

A National Tribal Water Council Listening Session AND Tribal Listening Session: Proposal to Revise the Definition of Waters of the US

~ Room 300 C~

Details: The National Tribal Water Council will provide a summary of current water related issues that have the potential to affect Tribes and Alaska Native Tribes and Villages, such as, overall US EPA budget for STAG, Drinking Water Set Aside; "Waters of the United States" (WOTUS); Baseline Water Quality Standards; and GAP Guidance revisions. More importantly, the Water Council wishes to hear and listen to the concerns and issues in Indian Country related to these topics and others.
Presenters: Ken Norton, Nancy Schuldt, Kathleen Brosemer, Alex Cabillo, and Micco Emarthla – Members of the National Tribal Water Council

Details: EPA and the Department of Army are following a two-step rulemaking process to develop a revised definition of "waters of the United States." A February 2017 Presidential Executive Order directed the agencies to review and rescind or revise the 2015 Rule. In step 1, the agencies proposed to recodify the previous, longstanding regulatory definition. In step 2, the agencies plan to propose a new definition. The agencies are aware that the scope of CWA jurisdiction is of interest to tribes and, therefore, want to provide time for appropriate consideration and deliberations on the ultimate regulation. Tribal staff and officials are invited to participate in this session to learn more about the agencies' actions and to provide feedback on how different rulemaking options might affect tribes.
Presenters: Rose Kwok, US EPA

Moderator: Elaine Wilson, ITEP

NOTES:

ED_002087_00000470-00024

1:30 pm - 3:00 pm ..... Breakout Sessions ..... 1:30 pm - 3:00 pm

Building a Hazardous Waste Program AND Out First Household Hazardous Waste Collection Event: Highlights and Lessons Learned

~ Room 302 AB~

Details: Tribal nations face major environmental challenges associated with hazardous waste. The hazards present in wastes can harm tribal communities and the environment if not managed properly. While tribes face significant challenges in this area, there are also opportunities. Tribal governments recognize the need for tribal governance over hazardous waste generation, management, and disposal. Each tribal nation has a unique need for hazardous waste management. This session will share the experiences of the Santee Sioux Nation as it begins to develop a hazardous waste management program. The session will focus on tribal enforcement authority, inspection programs, inspector credentialing, and other resources. Attendees will discuss options and challenges to developing their own program. Presenters will discuss how US EPA can partner with tribal governments to help build tribal capacity.
Presenters: Liz Blackburn and Jane Kloeckner, US EPA Region 7; Alisha Bartling and Page Hingst, Santee Sioux Nation of Nebraska

Details: Sessions at past TLEFs have focused on several issues relating to hazardous wastes, including inspections, emergency response, safety, storage, management, recycling, and program funding sources. However, few conference discussions have highlighted the challenges and successes of tribally-sponsored household hazardous waste (HHW) collection events. During this session, participants will learn about recent expansion of the solid and hazardous waste program managed by the Confederated Salish and Kootenai Tribes (CSKT) of western Montana. The CSKT have planned and are preparing to host the first-ever tribally-sponsored HHW collection event on the Flathead Indian Reservation in August 2018. The CSKT are partnering with several organizations to ensure the success of the event, including the tribal college, the CSKT Housing Authority, the local non-tribal government, a non-profit organization, event sponsors, fire departments, and the regional waste management company. In addition to the waste collection event, we will highlight other important components of our EPA-funded program, including 1) development of a tribal hazardous waste ordinance; 2) preparation of educational products to improve public awareness; 3) refinement of our hazardous materials/wastes inventory; and 4) completion of a feasibility study to evaluate potential long-term funding sources for an annual collection event. We will also provide tips on how to write effective grant proposals and potential sources of funding for developing or expanding tribal hazardous waste programs.
Presenters: Willie Keenan, Confederated Salish and Kootenai Tribes and Adam Johnson, NewFields

Moderator: Rob Roy, La Jolla Band of Luiseno Indians and TWAR Steering Committee

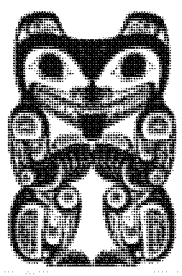
Assisting Community Sustainability in Small and Rural Populations through the DISC Tool AND Exchange Network and E-Enterprise for the Environment: Updates for Tribes

~ Room 401 AB~

Details: The EPA is developing an application named DISC (Decisions Integration for Strong Communities) to assist communities in meeting their coordinated economic, social, and environmental goals. We are conducting research to help determine the usefulness of this tool for smaller communities and, potentially, local tribal units. The key to success for this tool is garnering support from these types of communities. We encourage collaboration among communities, US EPA, and other sustainability groups. DISC encourages smart growth through equitable development, and assists communities in making financially sound decisions that diminish disparities, strengthens existing communities. Initially, seven goal areas will serve as discussion topics for describing the sustainability of a community within the DISC tool: Local economy, environmental resource management, built environment, public health, community involvement, society, and resilience.
Presenters: Kristi Swisher, US EPA/ORISE Fellow

Details: This session will provide updates on current activities for the Exchange Network (EN) and E-Enterprise for the Environment (EE) that are relevant to tribes. Presenters will share highlights and review current activities to assess tribal needs and capacity regarding environmental data management, and related efforts to craft an updated technology architecture roadmap for the future. An update on the EE QAPP streamlining effort, and other current initiatives, such as the EE Community Inventory Platform, will also be provided.
Presenters: Frank Harjo, Micco Emarthla, Kristen Durance, Owen McAleer, Lydia Scheer

Moderator: Lydia Scheer, ITEP



ED_002087_00000470-00025

1:30 pm ~ 3:00 pm ..... Breakout Sessions ..... 1:30 pm ~ 3:00 pm

Remedial Investigation Feasibility Study 101

~ Room 402 AB~

Details: This session will focus on the remedial investigation/ feasibility study (RI/FS) process from start to finish focusing on Tribal involvement in the process. I'd like to discuss Tribal research permit process, cultural monitoring for studies provided by the Tribes, Tribal standards (water, sediment, hazardous waste, etc...), cooperative agreements, and general involvement in the process by Tribes and why it is important to not just have a contractor. We will also discuss funding sources provided with this process (Tribal vs. Government). This session will be beneficial to the beginner all the way to Tribes currently involved with a CERCLA site.
Presenter: Cindy Marchand, Confederated Tribes of Colville

Moderator: Rebecca Stevens, Coeur d'Alene Tribe and TWAR Steering Committee

Do I Really Have to Test That? AND Secondary Containment for USTs– Requirements and Selection

~Room 402 C ~

Details: Despite the three year phase in period for many of the 2015 UST regulation revisions, a great deal of confusion remains on the new equipment testing requirements for release prevention/release detection equipment, 40CFR 280.35 in particular. In this session, we'll clarify the requirements using specific examples for what does and doesn't require the annual and tri-annual testing. Many facilities are scheduling expensive tests they aren't required to have such as integrity testing for sumps not used for interstitial monitoring of piping. Many contractors are advising facilities they need to conduct these expensive tests when they aren't actually required for compliance. We will explain new equipment testing requirements and ways to advise facility operators how to comply without doing unnecessary testing.
Presenter: John LeBlanc, Red Lake Band of Chippewa

Details: The new UST regulations require secondary containment that is compatible with the fuels stored and that they are inspected and tested. The new regulations require integrity testing or interstitial monitoring. The participant will learn about accepted methods, challenges with each and how to ensure that UST systems are compliant with the new regulations.
Presenter: Jeff Dzierzanowski, SourceNA

Moderator: Victoria Flowers, Oneida Nation

Coeur d'Alene Tribe's Brownfields Response Program AND Tribal Sustainable Environmental Planning – NEPA & HUD Requirements

~ Room 303 AB ~

Details: This session will share the Coeur d'Alene Tribe's experiences with its first two years of its Brownfields Response Program. The Tribe will share the steps it has taken to build its program, accomplishments and results to date and future plans for the program.
Presenter: Tiffany Allgood, Coeur d'Alene Tribe

Details: In this session we'll explore promoting (sustainable) environmental planning by: Talking about comprehensive planning & how it fits into tribal decision making; Going over some of the pertinent mechanics of NEPA and other federal environmental laws; Pointing out how tribes can use the procedures set up by federal environmental authorities such as NEPA to impact federal decision making. We will also discuss how planning can promote collaboration among different arms of tribal government.
Presenter: Eugene Goldfarb, KSU-TAB

Moderator: Mark Junker, Sac and Fox Nation of Missouri in Kansas and Nebraska and TWAR Steering Committee

Brainstorming Ways to Recycle Old Fishing Gear

~Room 300 D ~

Details: This session will focus on listening to members of coastal states to (1) identify challenges in disposing of or recycling fishing gear and (2) brainstorm solutions that might be shared across/within regions. Net Your Problem is working on developing economically sustainable gear recycling programs around the United States, and every port has a different solution. This session aligns directly with ITEP's mission to share what solid waste programs work and which don't, and to share that information across regions. Participants should be familiar with solid waste disposal options and preferentially have contacts in the fishing or shipping industries. At the end of the session, regional groups will be formed to continue the discussion, with Net Your Problem serving as a consultant to all groups.
Presenters: Nicole Baker, Net Your Problem, and Scott Anderson, Native Village of Port Heiden

ED_002087_00000470-00026

1:30 pm - 3:00 pm ..... Breakout Sessions ..... 1:30 pm - 3:00 pm

The Community Engagement Process for Responding to the Gold King Mine Spill

~Room 300 C ~

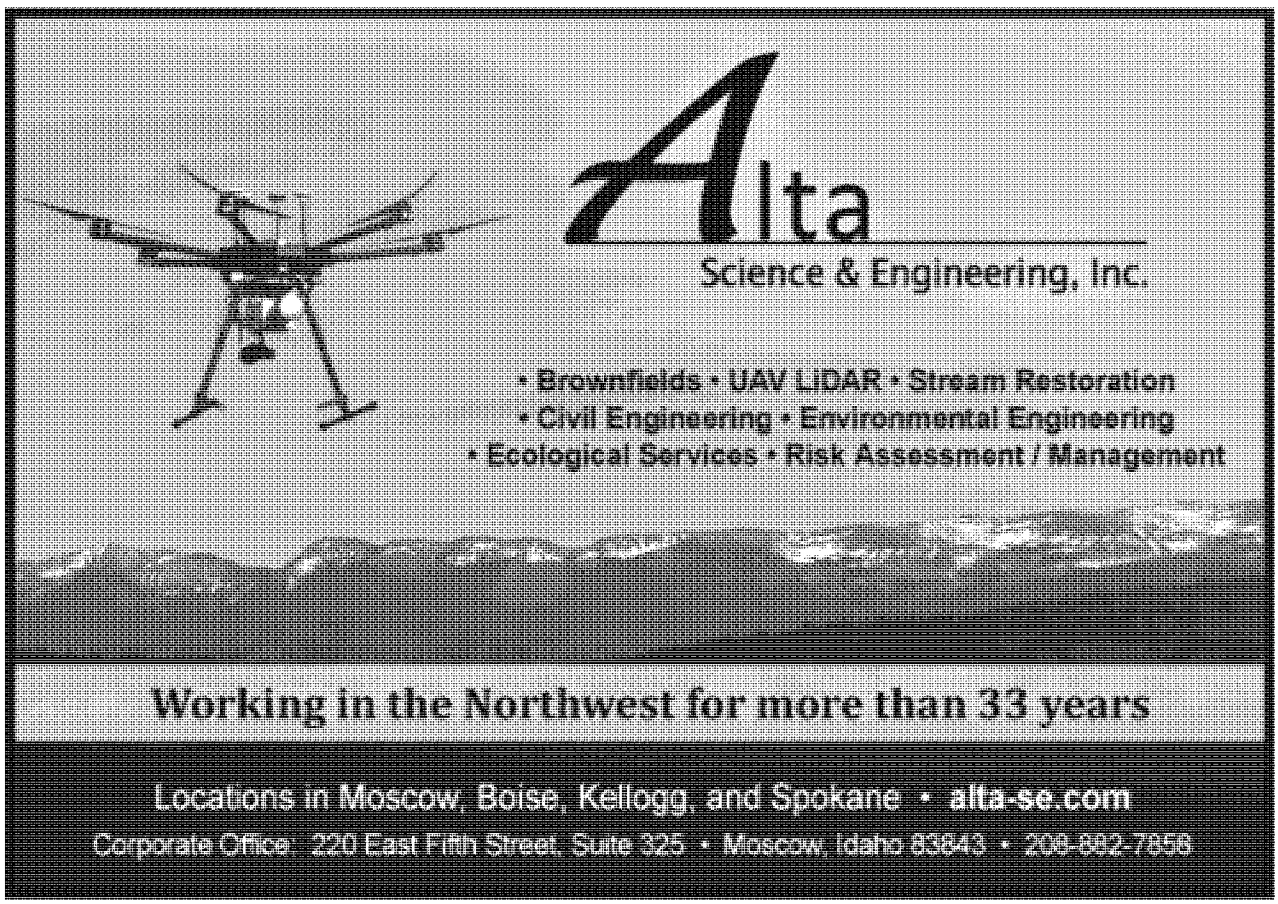
Details: In August 2015, 3 million gallons of acid mine drainage were accidentally released from the Gold King Mine, eventually reaching the San Juan River. The Diné (Navajo) people rely heavily on the San Juan River for agricultural, spiritual and cultural practices. An interdisciplinary group of researchers, community partners, and governmental agencies rapidly mobilized to respond to the needs of the Diné. This session will highlight the environmental and biomonitoring monitoring methods used to respond to the Gold King Mine Spill. Participants will become proficient with environmental water and soil sampling methods. Session attendees will learn to engage with academic and community partners to develop and implement a biomonitoring and environmental sampling plan.

Presenter: Yoshira Ornelas Van Horne, University of Arizona, Gold King Mine Spill Diné Exposure Project

Moderator: Amanda Van Epps, USEPA Headquarters

NOTES:

Thank You to Our Silver Level Sponsor!



3:30 pm ~ 5:00 pm ..... Multi Media Meetup ..... 3:30 pm ~ 5:00 pm

Exhibit Hall B 1 / B 2

Join us for our third annual Multi Media Meetup, where you can interact and network with a wide variety of tribes, agencies, and organizations, in addition to exhibitors such as RIDLFI/EcoChem, Backflow Management Inc., New Fields, Abt Associates, USTTraining, and AWQMS/Gold Systems. Following are just some of the groups participating this year!

- Pueblo of Acoma: The Pueblo is working to form a sovereign electric company where the Pueblo, providing retail sale and service of electricity to the community – the first Pueblo to do so. Information will also be shared on efforts to establish utility scale renewable energy on the Pueblo of Acoma.

- Coeur d'Alene Tribe: Coeur d'Alene Tribal Summer Youth experiences in STEM education by way of connecting Watershed Science with Culture, Outreach, and the 4 pillars: Membership, Guardianship, Scholarship, and Stewardship.

- Colville Confederated Tribes: The Tribe's Environmental Trust Department will highlight their work, including their climate change activities and response program.

- Fort Belknap Indian Community: Poster display of the Tribe's work on Climate Change and Wetlands. Displaying First Foods, Native Plants, and Native Crafts.

- Santo Domingo Tribe: Providing information on their Recycling and Illegal Dumping projects and their Digital Storytelling Workshops for the Pueblos and Tribes in New Mexico. Examples of Digital Storytelling will be on display .

- Tribal Waste and Response Steering Committee: Members of the TWAR SC will be on hand to talk with attendees about their priorities and issues.

- Tribal Superfund Working Group: Tribes will be displaying a wide variety of creative public outreach and engagement materials they have developed to support their work.

- National Tribal Water Council: Displaying information on current work and a chance to meet members.

- National Tribal Toxics Council: Displaying the work of the NTTC and Zender Environmental to increase awareness among tribes of toxic chemicals in everyday consumer products which are regulated under TSCA.

- Inter Tribal Council of Arizona: Information on National Tribal Water & Wastewater Operator Certification Program.

- National Tribal Caucus: Come learn about the history and origins of the NTC, EPA's first tribal partnership group, as we head into the 25th year of partnership with EPA! Attendees are invited to share their ideas and stories.

- US Dept. of the Interior/NRDAR: Providing information on Natural Resource Damage Assessment and Restoration.

- USGS: Display of the Digital Temperature Sensor, a one km long fiber optic cable capable of measuring water temperature flux at a one meter scale.

- US EPA OLEM: Staff from the Office of Superfund Remediation and Technology Innovation, Federal Facilities Restoration and Reuse Office, Office of Emergency Management, Office of Resource Conservation and Recovery, and Office of Brownfields and Land Revitalization will be on hand to talk about their various services and to answer questions.

- US EPA OUST: Demonstrating free, online compliance assistance tools to help UST owners and operators comply with the federal UST regulation. Participants can try EPA's online UST operator exam and inspector training.

- US EPA AIEO: Staff will answer questions and discuss their services/projects to assist Tribal environmental professionals.

- US EPA OPPT: Providing copies a new Toxics Release Inventory Tribal Fact Sheet and demonstrating a new online tool that displays maps, charts and graphs about toxic chemicals released by facilities located on or near tribal lands.

- US EPA Region 7: Representatives from water programs, wetlands, federal tribal law, and solid waste will be on hand to answer your questions, provide assistance, AND point you to great contacts in your home Region!

8:30 am - 10:00 am ..... Breakout Sessions ..... 8:30 am - 10:00 am

Trench Composting at Blue Lake Rancheria AND Maximizing Energy from Waste while Minimizing Life Cycle Environmental Burdens and Cost

~ Room 302 AB ~

Details: Food waste diversion that provides healthy benefits for the land and people.
Presenters: Jacob Pounds and Suzanne Alvernaz, Blue Lake Rancheria

Details: Discussion of a soon to be released guidance document for tribal and island communities that are exploring options for more sustainable management of materials with in the Municipal Solid Waste (MSW) stream. The presentation will cover the cost and environmental life cycle aspects of alternative MSW management options including: source reduction, reuse, recycling, composting, mass burn combustion, of other conversion technologies, anaerobic digestion, pyrolysis and gasification and landfill disposal. A simple decision tree diagram and key questions for decision makers to ask conversion technology purveyors. Outcome will be to assist the community in developing knowledge of the tools for long short and long term management of solid waste. Presentation will also include information on the different management options.
Presenter: Carol Staniec, US EPA Region 5

Moderator: Rick McMonagle, US EPA Region 10

Contracting for Environmental Services

~ Room 303 AB ~

Details: Contracting for Environmental Services: Services such as Brownfields ASTM Site Assessments, Brownfield or other contaminated Site Cleanups, Emergency Response, legal assistance, community outreach assistance, environmental sampling and/or laboratory analysis, information/data management or report writing. A panel discussion of the best practices for development of Request for Proposals/ Quotes (RFP/RFQs), Contractor selection, Contract negotiations, contractor oversight and customer-contractor working relationships for environmental tasks. Requirements specifically for contracting when using federal grant funds. Outcome should result in better contracting procedures and contractor relationships for improved results and cost effectiveness. No contracting experience required.
Presenters: Mickey Hartnett, KSU-TAB; Jody Ground, Choke Cherry Consulting; Rich Campbell, Campbell Environmental

Health Issues and Exposure to Environmental Changes AND Lead Awareness in Indian Country: Keeping our Children Healthy!

~ Room 401 AB ~

Details: Social determinants of health do not sufficiently explain high rates of poor health outcomes in U.S. Indigenous communities, which has led scholars to include environmental changes and historical trauma to examine intergenerational transmissions of health disparities. Previous studies found relationships between poor mental health and discrimination with exposure to environmental changes among tribal members. Environmental grief is felt at the same depth as for human loss grief. This presentation will demonstrate the development of an adaptation as an intervention to reduce health impacts from environmental changes. Participants will learn community led methods to empower Indigenous youth to break the cycle of intergenerational transmission of historical trauma by leading their communities to reconnecting with the environment as a pathway to relearn healthy behaviors of their ancestors.
Presenter: Shanondora Billiot, United Houma Nation/ University of Illinois

Details: The National Tribal Toxics Council, National Tribal Science Council and several EPA offices are working together to develop an education curriculum on lead, titled: Lead Awareness in Indian Country: Keeping our Children Healthy! The purpose of the lead education and prevention curriculum is to increase understanding and awareness of childhood lead exposures, health effects, and preventative actions. The target audience for instructors includes Tribal community/ youth leaders and environmental health providers. The target audience for participants includes tribal leaders, parents, grandparents, students, teachers, adults and community leaders. Currently, the team is working on the modules of the curriculum which include: Understanding Lead, Personal Hygiene and Nutrition, Cleaning Techniques, Hiring Lead Professionals, and Engaging the Community. A pilot testing of the curriculum this year will refine and validate the curriculum's applicability for tribal needs.
Presenters: Dianne Barton, Columbia River Inter-Tribal Fish Commission and NTTC, and Amanda Hauff, US EPA

Moderator: Mansel Nelson, ITEP

ED_002087_00000470-00029

8:30 am ~ 10:00 am ····· Breakout Sessions ····· 8:30 am ~ 10:00 am

Biofuels and UST Equipment Compatibility

~ Room 402 C ~

Details: A discussion about emerging trends in gasoline and diesel formulation including the addition of renewable fuels and their impact on gasoline stations and infrastructure. The participant will also learn about how regulations have mandated the increasing percentages of renewable fuels in our national fuel supply.
Presenters: Victoria Flowers, Oneida Nation and TWAR Steering Committee Member and Jeff Dzierzanowski, SourceNA

Oil Transport through the Puget Sound, Columbia River, and Other Inland Waterways AND Yakama Nation HazMat Spill Response Program and Mosier Oil Train Derailment

~Room 300 C ~

Details: Twenty billion gallons of oil are transported through Puget Sound, the Columbia River and many other inland river waters annually by vessel, rail, and pipeline. This transport of oil and the risk of major oil spills pose a threat to tribal resources, natural, cultural and economic. The Regional Response Team X/Northwest Area Committee develops plans for responding to spills in a rapid, aggressive and well-coordinated way, including tribes in the response process. Recently the plan was changed to include a Tribal Coordination Specialist position to help tribes navigate the Incident Command System to best leverage their limited staff and protect their interests, Sovereignty and make decisions effectively. This panel can address the questions of best practices for tribes to leverage limited resources to improve emergency response outcomes; developing tools and training to use ICS during a response to both small and large spills; opportunities for involving tribes in the planning process such as development of geographic response plans to pre-identify tribal resources that could be at risk of damage from oil spills
Presenters: Linda Pilkey-Jarvis, Washington State Department of Ecology and Tribal Presenters

Details: A presentation on the Mosier train derailment and involvement by the Yakama Nation response program.
Presenters: Wil Badonie and Elizabeth Sanchez, Yakama Nation

Moderator: John Wheaton, Nez Perce Tribe and TWAR Steering Committee

Preserving Resources while Protecting Tribal Use at Tar Creek Superfund Site AND Cultivating Capacity at Tribal Superfund Sites by Streamlining Human Health Risk Assessment and Natural Resource Damage Assessment and Restoration

~Room 402 AB ~

Details: Tribe's efforts to minimize disposal of topsoil by raising cleanup goals, while still being protective of tribal uses at the Tar Creek Superfund Site
Presenters: Tim Kent and Summer King, Quapaw Tribe

Details: Remediation and restoration at Superfund sites occur through regulatory programs with many parallel steps, but different objectives, and are typically implemented independently of one another. The objective of remediation is to reduce risk to human health and the environment, while that of restoration is to return natural resources and services to baseline conditions that existed prior to the contamination. Despite differences in objectives, environmental practitioners have begun to recognize efficiencies that may be gained by combining aspects of Ecological Risk Assessment (ERA) and Natural Resource Damage Assessment Restoration (NRDAR). However, there may also be more uniquely Tribal synergies to be gained between Human Health Risk Assessment (HHRA) and NRDAR. In this breakout session we describe a tribal cultural capacity-building approach to streamlining HHRA and NRDAR, using a Tar Creek Superfund Site case study.
Presenters: Kaylene Ritter and Jennifer Peers, Abt Associates; Brian Cleary, Cleary Law Group
Moderator: Rebecca Stevens, Couer d'Alene Tribe and TWAR Steering Committee Member

ED_002087_00000470-00030

8:30 am ~ 10:00 am ..... Breakout Sessions ..... 8:30 am ~ 10:00 am

Stream Restoration Project Lessons Learned from Implementing 4 Different Types of Stream Restoration Projects
AND
Moving Past Planning and Implementation of River Restoration with Mixed Jurisdictions
~Room 300 D ~

Details: This presentation is on the planning and implementation of four different stream restoration projects; working in the middle of nowhere versus in an urban setting, fish passage projects versus in stream habitat projects. I will share what I have learned after 15 years regarding funding, planning, permitting, construction, and monitoring of the projects.
Presenter: Jim Snitgen, Oneida Nation

Details: What to expect with the permitting process when you have multiple agencies and jurisdictions. Monitoring and following permit requirements through implementation, and implementing phases on a large scale restoration project.
Presenter: Emily Luscombe, Coyote Valley Band of Pomo Indians

Moderator: Ann Wyatt, Klawok Tribe and TWAR Steering Committee

Thank You to Our Platinum Level Sponsor!

10:30 am ~ 12:00 pm ····· Breakout Sessions ····· 10:30 am ~ 12:00 pm

Superfund Cleanup and Munitions at Federal Facilities

~ Room 402 AB ~

Details: This first part of this session will focus on providing an overview of federal facility cleanups under Superfund. The roles of federal agencies and tribal governments in federal facility Superfund cleanups, EPA's Federal Facility Tribal Program, and approach to developing partnerships will be discussed. For the second part, the EPA HQ munitions program manager will give an overview of the munitions response process including the latest guidance, policy issues, and technical developments. EPA will also discuss tools developed to assist regulators and stakeholders overseeing munitions cleanups. Emphasis will be placed on QA/QC efforts for effective implementation of advanced geophysical classification.
Presenter: Emerald Laija, Mary Cooke, and Doug Maddox, US EPA

Building Understanding: Developing Tribal Sovereignty Workshops for Internal and External Partners

~ Room 401 AB ~

Details: Though research and education related to tribes have historically been fields fraught with tension, given their use as means for assimilation and degradation of tribal cultures, they also are critical tools for strengthening sovereignty. This workshop will describe how the Coeur d'Alene Tribe is working to strengthen research and education, both internally and with outside partners, by providing sovereignty workshops that emphasize the history of Federal Indian Policy, research protocols, and frameworks for equitable partnerships. The results have been overwhelmingly positive, as both tribal staff and partners have reported a deeper understanding of how historical forces continue to impact their work today. A survey of the curriculum, including evaluation results from Idaho workshops, will be shared.

Presenter: Laura Laumatia, Caj Matheson, and Shawna Daniels, Coeur d'Alene Tribe

Moderator: Rob Roy, La Jolla Band of Luiseno Indians and TWAR Steering Committee

Thank You to Our Silver Level Sponsor!

USTTraining.com

Get ready for the October 13, 2018 training deadline!
UST Training offers online Indian Country Class A/B and Class C UST Operator Training

https://usttraining.com/location/indian-country/

All need is high speed Internet and speakers
Group discounts for bulk purchases
Available 24/7
Free technical and regulatory support

866-301-8265
info@USTtraining.com

10:30 am - 12:00 pm ..... Breakout Sessions ..... 10:30 am - 12:00 pm

Choctaw Nation Recycling Facility Case Study AND Tire Recycling at the Comanche Nation

~ Room 302 AB ~

Details: This session will introduce attendees to the Choctaw Nation's recycling program, and operations at our recycling facilities.
Presenter: Jason Lilley, Choctaw Nation

Details: Our session will be focusing on the benefits of recycling tires and how to prevent tires from ending up river banks, lakes and so on. We will also give a brief summary of our annual tire & battery drive and how it helps our community with recycling tires. Participants will learn where the tires go and how they are recycled and the benefits of keeping the land, waters clean from tires and how to reduce the amount of natural resources we recycle tires. The expected outcome is that after the session participants will have a better understanding on how to recycle tires and where to take tires. Also, where the recycled rubber goes and what it can be made into.
Presenters: Sean Cable and Michael Craig, Comanche Nation

Moderator: Cynthia Naha, Santo Domingo Tribe and TWAR Steering Committee

Brightfields on Tribal Lands

~ Room 303 AB ~

Details: Solar energy comes in all sizes, different markets, complicated regulations, and evolving technologies. And that's for nontribal lands. This panel will uncover the possibilities for development of solar installations appropriate for all scales of development.
Presenters: Ignacio Dayrit, Center for Creative Land Recycling; Chris Deschene and Douglas MacCourt, Rosette Law

Tribal Case Study of a UST Cleanup AND An Introduction to Assessing and Cleaning Up Leaking UST Sites

~ Room 402 C ~

Details: I will present on the gas station clean-up that we are currently doing. This will start with how we identified the release, what we did as soon as we discovered the release (calling in the release and why its important), the assessment we did and what was found, coordination with EPA, funding the clean-up, finding a consultant, writing the work plan, and what work that has been done and results that we have up to the date of the presentation. Participants will learn a way to identify possible UST releases, what should be done when a release is discovered, and possible other sources for clean-up funds.
Presenters: Troy Techlin, Saginaw Chippewa Tribe of Michigan

Details: This interactive session will outline the process of leaking underground storage tank (LUST) site investigation and cleanup beginning with site discovery through site assessment including high resolution site characterization, cleanup, and eventual closure. Discussion topics include project planning, regulatory requirements, developing a scope of work and a conceptual site model, contracting, sampling design and methodology, sample analysis, cleanup strategies and technologies, and clean vs. risk-based site closures.
Presenters: Janice Pearson, US EPA Region 8 and Rob Rau, US EPA Region 10

Moderator: Victoria Flowers, Oneida Nation and TWAR Steering Committee

NOTES:

ED_002087_00000470-00033

10:30 am ~ 12:00 pm ····· Breakout Sessions ····· 10:30 am ~ 12:00 pm

Tribal Water Quality and Cyanotoxins: Leading a Multi-Jurisdictional Monitoring Program

~ Room 300 C ~

Details: During this session, participants will hear how Tribes (Big Valley Band of Pomo Indians and Elem Indian Colony) started a critical public health water monitoring program on Clear Lake, the largest natural lake in California. The Tribal efforts led to collaborative drinking water safety projects and increased transparency in communication from the lake managers. The Tribes also utilized data to participate in Clean Water Act regulatory framework (nutrient TMDL and establishing Tribal designated/beneficial uses). Participants should expect to learn about the challenges and impacts of cyanobacteria and cyanotoxins in waters that have traditional Tribal uses as well as tools and resources for Tribal water monitoring programs.
Presenters: Sarah Ryan, Big Valley Band of Pomo Indians and Karola Kennedy, Elem Indian Colony

Moderator: Elaine Wilson, ITEP

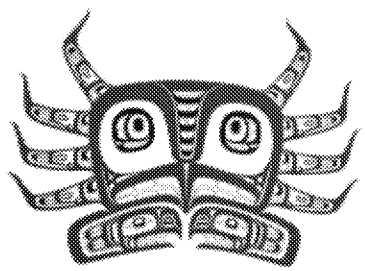
NOTES:

Managing and Financing Septic Systems AND Water Harvesting at Pala Band of Mission Indians

~ Room 300 D ~

Details: Septic system maintenance is critical since poorly maintained systems can result in sewage backup into homes and/or pollution of nearby waters. Proper maintenance saves money, protects property values, human health, and the environment. SepticSmart Week is a national education campaign led by the US EPA to promote proper septic system maintenance by residents. EPA outreach material on septic system maintenance will be presented, specific to tribal communities. In addition, funding opportunities for decentralized systems on tribal lands will be highlighted from EPA's Water Finance Clearinghouse. The Water Finance Clearinghouse is a searchable database of available funding and resources for water infrastructure needs that includes a search filter for tribes. Case studies will be shown from EPA's Financing Decentralized Wastewater Systems Learning Module. The learning module is an interactive portal for residents to learn how their system works and provides information on financing options.
Presenter: Gaida Mahgoub, ORISE Fellow

Details: Tribal collaboration with a local watershed council helped to install a number of water harvesting projects (greywater laundry-to-landscape, rain gardens, rain cisterns) on tribal homes in our watershed, as well as some agricultural irrigation efficiency projects (soil moisture sensors & a weather station) on one of the Pala Tribe's agricultural groves. All of these projects help the tribes to conserve water resources and build a relationship for future grant projects. This session will aim to (1) provide some real-world examples of successful partnerships with on-the-ground results, and (2) to provide some general instruction on a variety of water conservation projects that can be done on tribal lands, and how they can help protect tribal water resources.
Presenter: Heidi Brow, Pala Band of Mission Indians



ED_002087_00000470-00034

1:30 pm - 3:00 pm ..... Breakout Sessions ..... 1:30 pm - 3:00 pm

Planning for Natural Disaster Debris on Tribal Lands

~ Room 303 AB ~

Details: Natural disasters challenge tribal communities yearly and are expected to increase in frequency and intensity. In addition to addressing the loss of homes, lives, and power from natural disasters, communities are tasked with the difficult job of managing large amounts of natural disaster debris that may be generated. Debris may damage necessary infrastructure, block access to roads, and pose threats to human health and the environment. This session will highlight debris management planning and available resources. Tribal members will discuss elements of their disaster debris programs, such as partnering to build a landfill on tribal lands and implementing a debris management plan. Attendees will leave with a strong foundation to prepare for future debris, including the knowledge to prepare or update their own debris management plans.
Presenter: Melissa Kaps, US EPA

Moderator: Ann Wyatt, Klawok Tribe and TWAR Steering Committee

Lake Superior Barrels Project: Addressing Environmental Threats in Sacred Waters AND Jackpile Uranium Mine: Updates and Community Involvement

~ Room 402 AB ~

Details: This session will introduce you to the Lake Superior Barrels Project that has been managed by the Red Cliff Band of Lake Superior Chippewa under the U.S. Department of Defense Native American Lands Mitigation Program. Presenters will provide historical background, military waste context, and a summary of findings of underwater barrel surveys conducted within the scope of tribal treaty rights and sovereignty. Project aspects include gathering cross-jurisdictional support in the Lake Superior basin, hazardous waste permitting, community engagement, data collection, data interpretation & mapping, and working with federal agencies in tribally ceded territories.
Presenters: Linda Nguyen, Red Cliff Band of Lake Superior Chippewa and Bruno Ridolfi, RIDOLFI Environmental

Details: We will update participants on the current status of the mine and some of the current work being performed. Also talk about some of the challenges in protecting pristine waters and getting the community to get involved.
Presenters: Greg Jojola and Erin "Nikki" Woodward, Pueblo of Laguna

Moderator: Rebeca Stevens, Coeur d'Alene and TWAR Steering Committee

Building for the Environment– Sustainable Materials Management in Building and Deconstruction Projects AND Deconstruction and Green Building: Growing Tribal Communities of Practice

~ Room 302 AB ~

Details: Tribes are beginning to incorporate Sustainable Materials Management principles into how they manage their materials and waste. Participants will hear about how tribes are putting these principles into practice in construction and deconstruction projects. Timonie Hood will kick off the session with a description of SMM. Christopher Bedeau of Miigwech Aki will then provide information about their unique business plan, their successes and some of the challenges in their social enterprise that aims to put the greatest amount of building materials back to a useful purpose instead of sending it to a landfill. Miigwech Aki also provided construction training, financial literacy, and work readiness programs for their employees. Finally, Julia Jacobs will talk about how they are addressing the almost 150 abandoned structures and mobile homes on their lands from an SMM perspective.
Presenters: Timonie Hood, US EPA Region 9; Chris Bedeau, Northwest Indian Community Development Center; Julia Jacobs, Saint Regis Mohawk Tribe

Details: This session will focus on deconstruction of abandoned mobile homes and healthier tribal housing. Presenters will cover health impacts from our built environment, focusing on issues with the aging mobile homes so numerous on tribal lands. We will hear about Hopland Band of Pomo Indians' efforts to inform tribal residents of concerns and to develop a departmental program of deconstructing abandoned mobile homes and reusing salvaged materials. We will describe two tribal mobile home deconstruction trainings held in California last year, overview the process and identify key lessons. We'll touch upon the budgetary and regulatory challenges involved. EPA's Tribal Green Building toolkit will be shared with case studies from green building efforts with tribes in Arizona and California.
Presenters: Terri McCartney and Tyrone Mitchell, Hopland Band of Pomo Indians; Deirdre Nurre and Timonie Hood, US EPA Region 9

Moderator: John Wheaton, Nez Perce Tribe and TWAR Steering Committee

ED_002087_00000470-00035

1:30 pm - 3:00 pm ..... Breakout Sessions ..... 1:30 pm - 3:00 pm

Tribal Health Impact Assessment for Wild Rice Rule Revisions AND Tribal Conservation Districts

~ Room 300 C ~

Details: For millennia, Minnesota tribes have been sustained by their harvest and consumption of wild rice, known as *manoomin* to the Ojibwe and *Psin* to the Sioux or Dakota people. Manoomin is considered sacred, a gift from the Creator; it is essential to tribal subsistence culture, diet, and traditions. Many tribes are zealously working to protect and restore remaining stands of wild rice on their reservations and within their ceded territories, but for other tribes in this region, the resource has already disappeared, along with the cultural connections and traditional knowledge. Minnesota and two tribes currently have in their water quality standards a federally approved sulfate criterion of 10 mg/l to protect natural wild rice stands from adverse effects of excess sulfate. The state has proposed changes to not only the sulfate criterion, but also to broader CWA protections for wild rice. The end result of these proposed rule revisions is that manoomin will be less protected under state regulations, and further declines in this critical cultural and natural resource will disproportionately affect tribal communities' health and well-being. At the same time, the Fond du Lac Band is undergoing a triennial review of our water quality standards. Based upon monitoring data and research results, we will be proposing to maintain our sulfate standard and include broader narrative standards to strengthen protection for reservation wild rice waters. A health impacts analysis (HIA) is an appropriate tool for evaluating and communicating some of these potential effects: impacts to community health, social cohesion, access to healthy food, equity; generally promoting health in policies and plans. We are investigating two pathways and associated tribal health outcomes: decreased protection and increased protection for wild rice through regulatory decisions.
Presenters: Nancy Shultz and Shannon Judd, Fond du Lac Band of Lake Superior Chippewa

Details: A Tribal conservation district provides a Tribal entity that focuses on learning about and utilizing the USDA and other federal agencies natural resource programs to help care for Mother Earth. Tribal conservation districts are essential if Indian Country is to ever achieve parity in access to federal conservation programs and to be able to manage their lands in a productive and healthy manner. To have Tribal needs met, it is critically important for Tribal Governments and farm/ranch producers to become involved in setting the goals and priorities of their Tribal District. A conservation district formed under tribal law or a tribal conservation advisory council established by the tribe serves as the focal point for grassroots efforts and the coordinating point in working with other entities in solving concerns by building coalitions founded on common objectives. These other entities may be local, state or federal. Building strong coalitions is a key to solving many of the existing natural resource issues we are faced with today.
Presenter: Dick Gooby, Indian Nations Conservation Alliance

Incorporating Swinomish Cultural Values into Wetland Assessment and Management AND Swinomish Water Quality Standards, Code Development, and EPA Approval Process AND Swinomish Water Quality Data– Long Term Trends

~ Room 300 D ~

Details: In this three-part session, participants will learn how the Swinomish Tribe has developed water quality standards, collects water quality data in support of those standards, and has developed a methodology for incorporating cultural values into wetland management.
Presenter: Todd Mitchell, Swinomish Indian Tribal Community

Moderator: Elaine Wilson, ITEP

UST Financial Responsibility Examples

~ Room 402 C ~

Details: A panel discussion that includes representatives from various Tribes who have had a wide array of experiences obtaining and using their financial responsibility mechanisms.
Presenters: TBD

Moderator: Victoria Flowers, Oneida Nation and TWAR Steering Committee

1:30 pm - 3:00 pm ..... Breakout Sessions ..... 1:30 pm - 3:00 pm

Addressing Risks to Tribal Resources from the Toxics that are Released from Consumer Products AND Pesticides in Tribal Communities: Strategies for Assessing and Reducing Risks

~ Room 401 AB ~

Details: Many products that Tribal governments and Tribal people buy and use are made from or with regulated "chemicals in commerce." Several of these are banned in other countries because they are highly toxic to people and their environment and are bio-persistent, meaning they stay in our environment for decades. Tribal leaders and tribal science staff can work to protect their resources and people by simply sharing how everyday consumer products are contributing to contamination and degradation of Tribal lifeways via water, fish, wildlife, plants, and air. Did you know that the levels set as "safe" by USEPA mean they are safe for the general population, but Tribal people's traditional and or modern lifeways were not really considered in their analysis? For example, they still think that eating a serving of fish once per month, about the size of your fist is normal. You can strengthen Tribal Sovereignty when you assert that your tribal lifeways deserve protection. The National Tribal Toxics Council works to advance the prevention of toxic pollution and identify the environmental injustice of disproportionate harmful health effects to tribal members from increased exposure to toxic chemicals. We are working with USEPA to set a precedent for risk assessments of chemicals that will protect Tribes as well as the general population from the release into the environment of chemicals contained in commercial products.
Presenters: Members of the NTTC: Diane Barton, Suzanne Fluharty, Fred Corey, Russell Hepfer, Laurie Suter, Rick DuBois, Susan Hanson, Jubin Cheruvelil

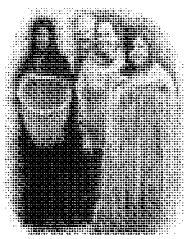
Details: Nearly every Tribe and Alaskan Native Village is affected by pesticides, whether they are utilized on Tribal lands for agricultural crops, to protect Tribal homes and structures from pest damage, or as the result of off-Tribal land use that has resulted in the contamination of natural resources that are used by Tribal people for food, medicinal, spiritual, recreational, or artisanal use. This session will provide an overview of a process that Tribes can use to identify potential pesticide impacts in their communities, will describe resources that can be used to support Tribal pesticide program work, and Tribal and federal partners will share their Tribal pesticide perspectives, recommendations, and experiences. Additionally, this session will provide an introduction to the Tribal Pesticide Program Council (TPPC), an EPA Tribal partnership group that supports Tribes and Alaskan Native Villages who have pesticide issues and concerns.
Presenter: Fred Corey, Aroostook Band of Micmacs; Holly Thompson Duffy, IHS; Amanda Hauff, US EPA
Moderator: Leanna Begay, ITEP

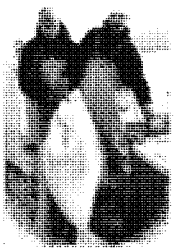
National Tribal Toxics Council

The mission of the NTTC is to advance policies and programs for pollution prevention and toxics management, consistent with the needs, interests, and unique legal status of American Indian tribes, Alaska Natives, and Native Hawaiians.

tribaltoxics.org

Do you care that toxic chemicals end up in your beloved Native foods, water, plants, land, and air? Of course you do! Did you know that EPA OPPT regulates 98% of the 84,000+ chemicals in the marketplace? That includes all the products you buy for your homes and vehicles, supplies and toys for your babies and kids, your furniture, your computer, shampoo, and more!*





What can you do? The NTTC works directly with EPA leadership to bring a tribal voice "to the table" in decisions that affect us all. Join us. Download a membership application from tribaltoxics.org and submit it today.

Speak up! Your Tribe's voice matters in EPA decisions! Get notified when it's time to join formal Tribal consultations and submit comment letters to EPA. Go to tribaltoxics.org to sign up for notices about national calls, tribal letter templates, and chemical fact sheets.

Urgent! The EPA is deciding how and/or whether to include tribal health risks from product chemical exposure in evaluating whether a chemical should be regulated more strictly. Are you tired of cleaning up brownfields and want a future where you are simply planning for harvesting your traditional foods?

*EPA Office of Pollution Prevention and Toxics regulates about 82,000 industrial chemicals. The Office of Pesticides regulates about 2,000 chemicals. The Food & Drug Administration regulates about 2,000 chemicals for use in drugs, cosmetics, and food.

ED_002087_00000470-00037

Closing Plenary: Exhibit Hall C
3:30 pm - 5:00 pm

SPECIAL PRESENTATION BY THE NEZ PERCE TRIBE'S WILDLIFE PROGRAM

PERFORMANCE BY THE ROSE CREEK DRUMMERS

FINAL RAFFLE

Thank you all for joining us at this eighth TLEF. We hope your experience was filled with beneficial conversations, and useful information, and that you return home with some new ideas and inspiration. We wish you all safe and pleasant travels.

Meet Your On-Site ITEP Staff

All of us at ITEP want to thank you for your attendance and participation in the Tribal Lands and Environment Forum. We hope you find it useful in your ongoing work protecting tribal lands, water, and people.

Ann Marie Chischilly, Executive Director

Todd Barnell, Project Director
Julie Jurkowski, Program Coordinator Sr.

Melinda Yaiva, Accountant
Lydia Scheer, EN Program Manager
Mansel Nelson, EEOP Project Director
Leanna Begay, Program Coordinator

Jennifer Williams, Program Coordinator Sr.
Riley Smith, Program Coordinator

Amanda Kapp, Videographer
Natasha Fulton, EN Research Specialist
Nikki Cooley, Climate Change Co-Manager
Elaine Wilson, NTWC Project Director

ED_002087_00000470-00038

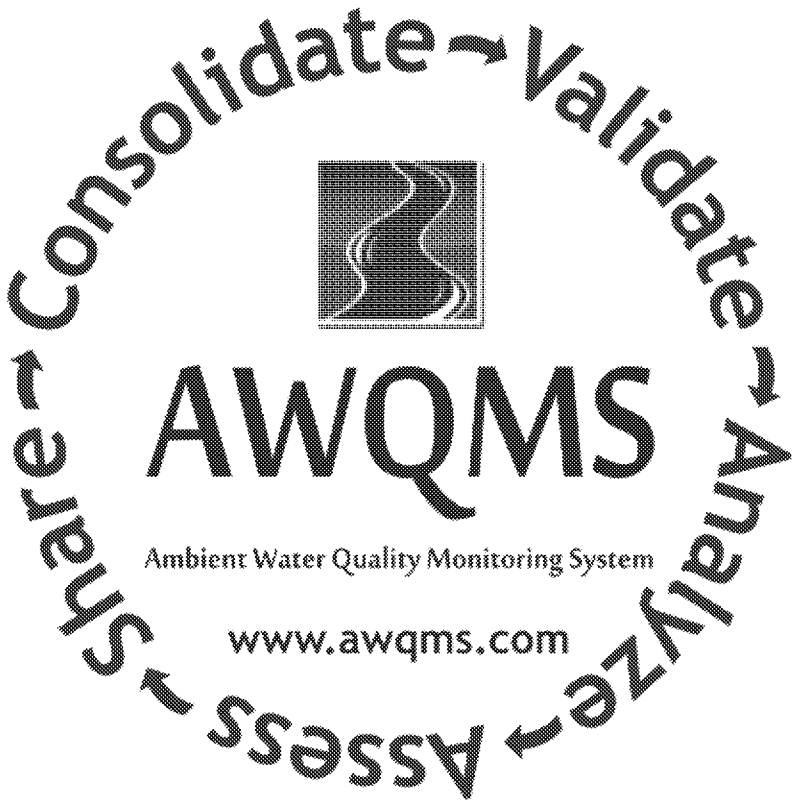
Tuesday: Tribal Drummer and Dancing Opportunity!

Please join the local Dancing Horses drumming group, as well as Tribal dancers outside the convention center on the Riverside Lawn from 5:30 to 6:30 pm. This will be a wonderful opportunity to spend time with your fellow attendees, learn more about our host Tribes, and have a lot of fun!
Audience participation is very much encouraged!

Wednesday: Film Showing and Tribal Artists Exhibit

Following the day's breakout sessions, join us in Exhibit Hall C for a special screening of **United By Water**, a film that documents the journey of local Tribal communities to Kettle Falls, the fishing site of their ancestors, for the first time in 80 years. This film was developed by Upper Columbia United Tribes, and is narrated by Sherman Alexie. The film showing will begin at 6:00 pm. Before and after the film showing, there will be numerous local Tribal artists – of all types – displaying their amazing work.. You won't want to miss this terrific opportunity to learn more about our host Tribes.

5:00 to 6:00 pm visit with local Tribal Artists
6:00 to 7:00 pm: Film showing of "United By Water"
7:00 to 7:30 pm: More time to visit with Tribal Artists



Thank You to Our Silver Level Sponsor!

ED_002087_00000470-00039

Annett, Cynthia: Cynthia Annett is a Research Associate Professor working with the Kansas State University's Tribal Technical Assistance for Brownfields (TAB) program. She holds a PhD from UC Berkeley and has over 30 years of experience in environmental science, aquatic ecology and fisheries. Dr. Annett provides assistance on database management, the use of e-tools for environmental and cultural resource inventories, and on using a variety of platforms for digital mapping in the field and collaborating with communities online. Her workshop materials can be found at CynthiaAnnett.org.

Baker, Nicole: Nicole Baker is a former North Pacific groundfish fisheries observer (2010-2015) who became actively involved in looking for a way to recycle fishing nets from Unalaska, Alaska. Her interest in this topic was inspired by Parley for the Oceans collaboration with Adidas to make a sneaker out of confiscated fishing nets and since 2015 has been looking for fisherman with nets to get rid of, and for recyclers who will take nets.She currently works at the University of Washington in Seattle, USA as a research scientist, and is the founder of Net Your Problem. She is focusing on expanding her footprint to other fishing ports, and is not restricted to working in the United States. She has lived on multiple islands and knows the limited options these types of communities have for waste disposal

Barolo, Mark: Deputy Director, US EPA Office of Underground Storage Tanks. Mark Barolo, is the Deputy Director of EPA's Office of Underground Storage Tanks (OUST). OUST is responsible for implementing the national UST/LUST program to prevent and clean up UST releases. OUST works closely with its state, tribal, and industry partners to develop practical solutions to the ever-evolving program challenges and opportunities. Mark has worked in OUST since 1993 in a variety of capacities. He always appreciates the opportunity to talk with and learn from other professionals in the industry.

Barton, Dianne: Dianne is the Water Quality Coordinator at the Columbia River Inter-Tribal Fish Commission (CRITFC) where she provides technical expertise related to water quality, environmental toxics, regulatory processes, and fate and transport of contaminants. CRITFC is a technical support and coordinating agency for its member tribes' fisheries management programs that works to restore fish in the ancestral homeland of the CRITFC tribes which covers one-fourth of the entire Columbia River Basin. Salmon, water, and other natural and cultural resources are critical to tribal culture, religion, and economy but are threatened by the production and discharge of toxic contaminants and other pollutants into the environment. Consequently, CRITFC's tribal members whom rely upon their treaty fishing rights place them at a greater risk of exposure to toxic contaminants than members from non-tribal communities. Dianne also serves as the Chairman of the National Tribal Toxics Council (NTTC) which is an EPA Tribal partnership group that advocates for tribal interests in toxic policy decisions. Key issues for the NTTC include advocacy for programs to minimize the disproportionate exposure of tribal members to toxic chemicals, increasing tribal capacity to monitor and assess foods and resources for toxic chemicals, and enhancing tribal consultation and coordination on national chemical risk management and pollution prevention policies and chemical regulation. Previously, Dianne was a Distinguished Member of Technical Staff at Sandia National Laboratories in Albuquerque, New Mexico and worked in their Environmental Restoration Technologies Department and in their Infrastructure Surety Department. She holds a Ph.D. in Geochemistry from the University of Arizona and is a member of the Bad River Band of Lake Superior Chippewa.

Bearfighter Reddoor, Charles: Charles Bearfighter Red-Door is the National Tribal Programs Coordinator for the Federal, State and Tribal Programs Branch, Permits and State Programs Division, EPA's Office of Resource Conservation and Recovery. He serves as a member of the Office of Resource Conservation and Recovery Tribal Team, works on solid and hazardous waste policy and guidance, and coordinates tribal solid waste activities, grants projects, and program measurement data with other federal agencies. Charles is an enrolled member of the Fort Peck Assiniboine & Sioux Tribes.

Bermejo, Lilly: Lily has a Bachelors in Ecological Restoration and a Masters in Environmental Management, and has been in the environmental protection profession since 2008. She worked for the Arizona Department of Environmental Quality in Waste Programs, and was involved in inspections and compliance, and providing outreach to citizens. She currently works for the Salt River Pima-Maricopa Indian Community as the Brownfields Program Manager, overseeing clean-up of contaminated land, outreach, and grants management.

Berrios, Lisa: Lisa Berrios began a one-year detail in January 2018 as the Acting Deputy Director of EPA's American Indian Environmental Office. Ms. Berrios is the Regional Indian Coordinator in EPA Region 4, based in Atlanta.

Britt, Joy: Joy has dedicated her career to Public Health in service to rural and native populations for the past six years. She is currently the Tribal Response Program Manager at ANTHC, the largest native-owned health consortium in the US, and the Director for the annual Alaska Tribal Conference on Environmental Management. Joy enjoys learning about new cultures, enjoying the great outdoors, and sampling worldly cuisines.

ED_002087_00000470-00040

Brow, Heidi: Heidi Brow has been the Water Resource Specialist for the Pala Band of Mission Indians (San Diego, CA) since 2005. She oversees the tribe's water resource program, including water quality monitoring and drinking water programs, grant management, developing water-related reports for the tribe, conducting regular outreach to both the tribal community and watershed-wide outreach, works on tribal youth science programing, and a variety of different water-conservation implementation programs. She has also served as a board member (Secretary/Treasurer) for the San Luis Rey Watershed Council since 2009. She currently oversees most of their reporting, social media/website and general outreach, and helps with their grant management.

Cable, Sean: Sean Cable is the Solid Waste Technician for the Comanche Nation Office of Environmental Programs. Sean helps run the Solid Waste Division and Recycle Division for the CNOEP. Sean attended Arizona State University and received his Bachelors in American Indian Studies.

Chamberlain, Dr. Eliodora : Dr. Chamberlain currently works for EPA Region 7 in the Watershed Planning Implementation Branch/Watershed, Wetlands and Streams Protection Section as a Life Scientist working with the states and tribes on wetland program capacity building, wetland monitoring and assessment, and CWA 404 Regulatory. She graduated with a B.S. in Zoology from the University of California, Davis. She received her M.S. and Ph.D. in Wildlife Behavior and Physiological Ecology from the University of Missouri-Columbia in the Department of Fisheries and Wildlife Sciences and the USGS Fish and Wildlife Cooperative Research Extension Unit. She has worked for the US Fish and Wildlife Service and the U.S. Department of Agriculture's Forest Service in California, Michigan, Minnesota, and Wisconsin. After working 17 years in the field and research, she started working for the US EPA Region 7 in 2005. When she is not working for the EPA, she is a Canine Search Specialist with FEMA's Missouri Task Force 1 Urban Search and Rescue Canine Team, a FEMA K9 Evaluator, and a FEMA K9 Instructor. She trains her certified dogs, Phoenix and Gunner, and is in a constant state remodel with her 1955 mid-century modern home.

Cheruvelil, Jubin: Behavioral Ecologist who sees to understand the role of risk and uncertainty in food and health systems.

Christensen, Eileen: Eileen Christensen is the President, Principal Scientist, and founder of BEC Environmental, Inc. She has over 20 years of experience in environmental consulting, during which she had the opportunity to work on international projects in South Asia, Sub-Saharan Africa, and Europe. When she returned to the U.S. in 1999, she dedicated her career to exploring the nexus between brownfields, infrastructure, clean energy, water quantity and quality, and socio-economics.

Clifford, Wayne: Wayne currently manages the Zoonotic Disease Program for the Washington State Department of Health. He has a B.S in Environmental Science from The Evergreen State College. He has 28 years of experience in Environmental Public Health at the state and local level. The majority of his career has involved designing and carrying out environmental sampling programs. He hikes, hunts, and fishes. He lives in Littlerock, Washington with his wife and cat Indi.

Cooke, Mary: Mary Cooke is a physical scientist in the Federal Facilities Restoration and Reuse Office (FFRRO) of EPA's Office of Land and Emergency Management. Mary has been working with FFRRO since October 2006 and has been the Subject Matter Expert for emerging contaminants (such as PFAS), NPL/Site Assessment and Base Realignment and Closure (BRAC). She joined the federal government in 1998 as an NPL and BRAC remedial project manager for EPA Region III in Philadelphia. She holds a Bachelor's degree in Earth Science with minor in Geography and Marine Science from Pennsylvania State University, and a Master's degree in Environmental Pollution Control, also from Penn State.

Corey, Fred: Fred has served as Environmental Director for the Aroostook Band of Micmacs (northern Maine) since 1996, and is responsible for the development and management of all Tribal natural resource programs.In addition to his work with the Aroostook Band of Micmacs, Fred has served on the Tribal Superfund Working Group, has served as co-chair of EPA's Forum on State and Tribal Toxics Action (FOSTTA) Tribal Affairs Project, and currently serves as chairman of EPA's Tribal Pesticide Program Council (TPPC), and as vice-chairman of EPA's National Tribal Toxics Council (NTTC). Fred's professional interests include environmental chemistry, Tribal risk assessment, and Tribal environmental law.

Dayrit, Ignacio: Ignacio directs the Center for Creative Land Recycling's (CCLR) technical assistance program for redevelopment projects. Ignacio is a redevelopment expert having spent 20 years with the City of Emeryville's Redevelopment Agency, where he was responsible for the city's Brownfield Program and was instrumental in the City's redevelopment of hundreds of acres of blighted property. For CCLR, he has assisted states, cities and tribes obtain more than $30M in EPA grants and technical assistance. He has over 30 years of experience in public sector development including: fiscal and financial analysis, public debt financing, feasibility analyses, and design in urban and rural settings.

ED_002087_00000470-00041

Diefendorf, Sarah: Sarah Diefendorf is the Executive Director of the Environmental Finance Center West, a program housed at Earth Island Institute in Berkeley, California. She has founded and managed numerous nonprofit organizations throughout her career and has specialized in building business, financial, communications and leadership capacity in the US and abroad. For the past three years Sarah has worked as a national trainer for USEPA and has delivered Leadership Through Communications workshops for small water systems for small and rural communities and Tribes throughout the United States. Sarah also has over ten years of experience working with multiple Tribes in California, Nevada, Arizona and New Mexico to support efforts to develop greener economies and self-sufficiency through recycling programs, transfer stations, compost operations, ecotourism and alternative energy. Sarah is an Expert Witness for the USEPA National Environmental Finance Advisory Board, serves on the Board of the California League of Women Voters, is the immediate past chair of the Carbon Cycle Institute and holds a BA in International Relations from San Francisco State University and an MS in Environmental Geography from Cambridge University.

Du Bey, Richard: Mr. Du Bey is chair of the Tribal Government Practice Group at Ogden Murphy Wallace PLLC in Seattle WA. He has represented Tribes in environmental and natural resource matters for 38 years.

Dubois, Rick: Director of Environmental Services, Seneca-Cayuga Nation. Certified Floodplain Manager with experience in GIS, Grant Writing/Administration and Hazard Mitigation Planning. BS in Recording Industry Management with Emphasis in Audio Engineering from Middle Tennessee State University; Minor in Electronics.

Dufficy, Craig: Craig Dufficy is the lead Environmental Engineer on the landfill development for the United States Environmental Protection Agency. He has been with the Agency for more than 15 years and is responsible for developing new Federal regulations on the design and operation of convention and bioreactor landfills in the United States. He oversees the development of training classes for landfill operators through non-profit organizations and has served on technical advisory panels relating to landfill design, construction, operation, and closure technologies. Mr. Dufficy is the chairperson of EPA's bioreactor landfill work group that is currently reviewing experimental bioreactor landfill results for future regulation revisions. He has been a team member for the National research Council of the National Academies on the Assessment of the Performance of Engineered Waste Containment Barriers and a panel member for technical guidelines for the Interstate Technology & Regulatory Council.

Eichstaedt, Rick: Rick Eichstaedt serves as the policy analyst for the EPA Region 10 Tribal Operations Committee advising the tribal caucus on environmental matters related to EPA's environmental programs. Rick also serves as an attorney for the Wheat Law Offices representing the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians and Spokane Tribe on a wide range of matters. Rick also serves as the director of Gonzaga University School of Law's environmental law and land use clinic. He started his legal career as a Staff Attorney for the Nez Perce Tribe where he worked on a wide variety of environmental, natural resource, cultural resource, and treaty-rights protection cases.Rick is licensed to practice law in Oregon, Washington, and Idaho, as well as federal courts in all three states, the Ninth Circuit Court of Appeals, and the U.S. Supreme Court. Rick has published articles on environmental and natural resources in various journals and legal publications, including articles on the exercise of the implementation of Clean Air Act rules in Indian Country and Federal Energy Regulation Commission dam relicensing proceedings.

Fluharty, Suzanne M: Suzanne M. Fluharty has been an active member of the National Tribal Toxics Council since 2014. Suzanne is the manager for the Community and Ecosystem Health Division of the Yurok Tribe Environmental Program. She served as Principal Investigator and Co-Principal Investigator and Project Field manager for two EPA National Center for Environmental Research Science to Achieve Results (STARs) Grants betweend 2009-2014. These grants studied Climate Change Impacts to Yurok Resources and Environmental and Psycho-social Stressors to Lifeways of Pohlik-lah and Ner-er-ner, members of the Yurok Tribe. She has co-authored papers on tribal subsistence, botanical education applications for TEK, Native American estuarine resources, and cultural information informing resource planning. Suzanne received her PhD in Environmental Sciences from Oregon State University's College of Science with dual majors in Applied Anthropology; Botany and Plant Pathology with a focus on Native American Natural Resources. Honors include being a recipient of the National Association for the Advancement of Colored Peoples, Corvallis Oregon Branch Volunteer of the Year Award for 2001 for her community involvement and mediation between the city and regional Tribes regarding the removal of a derogatory name for a local creek. She has been an instructor at both the University and Community College level and has over two decades experience working with various Native American Tribes whose ancestral territories include the coastal regions of the Pacific Northwest.

Fry, Kristy: Kristy is a Tribal Coordinator in EPA's Region 10, she has been working with tribes to develop baseline environmental programs with an emphasis on sustainable materials management for the past six years. She has served as the regional lead on the sustainable management of food and is pas-

sionate about working with tribes to look for triple bottom line solutions to waste issues.

Garcia, Jose: José García joined Region 9's Brownfields Program in 2013 and has worked at EPA since 2006. He is the team lead for grants in Arizona and is the Tribal lead for the Program. Prior to joining the program he worked for the US-Mexico Border Program and as a Community Involvement Coordinator in the Superfund Program. During his spare time he likes undertaking home improvement projects and wrangling his two young boys.

Geyer, Rebecca: Becky has been with EPA for over 10 years. She started her career in Region 5 working on technical solid waste and emergency response issues with tribes and states, focusing on disaster debris. Last May, she transferred to Region 8's Emergency Response Preparedness unit and is currently the preparedness tribal coordinator. Becky holds a B.S. in Biology from Denison University.

Gossel, Arndt: Arndt Gossel is currently an ORISE participant at the USEPA working on HAWQS development, water quality modeling, and geospatial data management. He has his MS in Biological Engineering from University of Missouri.

Grant, Jill: Jill E. Grant is the founding member of Jill Grant & Associates, LLC in Washington, D.C. Her work focuses on the development, implementation, and enforcement of tribal environmental laws and programs and associated administrative and appellate litigation. She has assisted tribes with obtaining "treatment as a state" and primacy for many tribal environmental programs, including the first delegated tribal Clean Air Act Title V permit program and the first tribal public water systems supervision program. She also works with tribes to develop water quality standards and to obtain remediation at Superfund sites and various leaking storage tank sites. Ms. Grant previously worked in the Office of General Counsel at EPA, where she was on the team that drafted the Clean Air Act Amendments of 1990, and she has worked in other private practice settings. Ms. Grant earned her BA from Yale College and her JD from Harvard Law School.

Grijalva, James: Professor James Grijalva teaches courses related to Indian Country Environmental Law, Environmental Law, Administrative Law and Property. Since 1996, he has worked with the governments and grassroots organizations of over 50 Indian tribes across the country as the Director of the Tribal Environmental Law Project, which he founded as a component of the Northern Plains Indian Law Center. Professor Grijalva has written numerous journal articles on environmental issues affecting Indian county, including a book entitled CLOSING THE CIRCLE: ENVIRONMENTAL JUSTICE IN INDIAN COUNTY. He has served as a technical services contractor for the American Indian Environmental Office of the U.S. Environmental Protection Agency, and as an environmental law dispute resolution trainer for EPA's Office of Environmental Justice. He was the Senior Fulbright Scholar for Aboriginal Legal and Resource Rights at the University of Alberta, Canada in 2009.

Ground, Jody: Chokecherry Consulting LLC is an environmental company working with tribes across the US to provide comprehensive training and service to tribes dealing with environmental issues, including Meth-Heroin remediation, meth awareness-remediation, air quality, water quality, mold, asbestos, EPA issues, Housing environmental issues. Our background is environmentally focused, and we have worked with Tribes, Federal, State agencies, and the Private Sector in several different Administrative rolls.We are a leader in Meth related issues in Indian country and are working to provide quality programing for tribes.

Hartnett, Mickey: Mickey Hartnett is a Kansas State University Tribal Technical Assistance to Brownfields (KSU-Tribal TAB) team member to provide technical assistance to tribes and tribal communities on 128(a) Tribal Response Programs and other brownfield issues. Served as a tribal circuit rider for the US EPA Region 8 from 2004 to 2014 provide technical assistance and training to tribes for Tribal Response Programs - Brownfields, solid waste and emergency response. Prior experience includes 25 years with the US EPA in the hazardous wastes, Superfund and Brownfields programs. He has diverse and extensive experience in assessment, remediation and redevelopment/reuse of contaminated sites and properties, including Brownfields and Superfund Sites. He is a graduate of the University of Florida with a B.S.E. in Environmental Engineering.

Hauff, Amanda: Amanda Hauff is the National Tribal Program Manager for EPA's Office of Chemical Safety and Pollution Prevention. Amanda has worked closely with tribes throughout her EPA career. Today, she works with tribes on toxics exposures, pesticides, pollution prevention and more. She collaborates closely with the National Tribal Toxics Council, the Tribal Pesticide Program Council, and the National Tribal Science Council. Currently, she is focused on: 1) identifying tribal lifeway exposure scenarios to be considered for the Agency's risk assessment processes; and 2) acting to reduce childhood lead exposures in Indian country.

Hingst, Page: Page Hingst is the Brownfields 128(a) Tribal Response Coordinator for the Santee Sioux Nation of Nebraska. She has worked in her capacity for 3 years and for the Santee for 1 year. Mrs. Hingst is responsible for brownfields, UST's, solid and hazardous waste and emergency response.

ED_002087_00000470-00043

She is a member of the Region 7 LEPC Planning Committee and Program Subcommittee, Region 7 TRP Workgroup, RTOC alternate rep, Tribal Science Council Region 7 alternate, KSU TAB/BIT partner, Siouxland Sub-Area (Emergency Response) and the Santee Sioux Nation's Tribal Cultural Rejuvenation Coalition. She has a Bachelor's of Science degree from Wayne State College in Biology and Psychology. Mrs. Hingst is highly passionate about the environment and committed to ensuring the health of the people and the community in which they live.

Hood, Timonie: Timonie Hood works for EPA Region 9 as a Zero Waste and Green Building Coordinator. For the past 7 years, she has worked with and learned from tribal leaders and communities developing tribal green building codes, building projects, and green manufactured housing procurements. She co-led the development of EPA's Tribal Green Building Toolkit and Green Building Tools for Tribes website.

Howard, Mark: Mark Howard is an Environmental Scientist with the Headquarters Office of the United States Environmental Protection Agency's Office of Emergency Management (OEM), Regulation Implementation Division in Washington D.C. He is the Spill Prevention Control and Countermeasure (SPCC) Technical Team Leader and national project manager for the Inspector's Training Program, the Oil Program Technical Guidance Workgroup, the Upstream (production) and Technical Workgroup. He is also the lead technical member of the SPCC rulemaking workgroup and is a principal author of the SPCC rule (40 CFR part 112). Mr. Howard served as the OEM lead for reviewing the Keystone Pipeline Environmental Impact Statement (EIS) and Agency Hydraulic Fracturing Study. Mr. Howard also was consulted by the National Academy of Sciences on their diluted bitumen paper. EPA has awarded Mr. Howard with several bronze and a silver medal. Prior to his Federal service he worked ten years as a State responder and AST inspector with the Commonwealth of Virginia's Department of Environmental Quality. Mr. Howard holds a Master of Science Degree in Biology (Specializing in Environmental Science and Policy) from George Mason University. He holds Virginia Emergency Services certifications as a Hazardous Materials Specialist and Incident Manager. He is most proud of his wife Christine and daughter Hope.

Hundt, Stephen: Stephen Hundt is currently working as a Hydrologist with the USGS Idaho Water Science Center. He obtained extensive experience working as a groundwater modeler in the state of California before coming to the USGS. He obtained his M.S from the University of Arizona's Department of Hydrology and Water Resources and a B.S. in Economics from University of California, Berkeley.

Hurst, Don: Don has worked for the Environmental Trust Department, Colville Confederated Tribes. Environmental consultant 1984-2004; CCT Response Program manager 2004-present. Mr. Hurst works and resides on Colville Reservation in north central Washington state. BS, MS Geology, University of Wyoming.

Ip, Angel: Angel Ip is a Tribal Waste Coordinator at EPA Region 10. She is part of EPA Region 10's Tribal Waste team, serving 271 federally recognized Tribes in Alaska, Idaho, Oregon, and Washington on addressing solid and hazardous waste issues. Angel is the program lead for solid and hazardous waste tools, trainings, technical assistance, data, research, coordination, and work on crosscutting topics, including addressing health impacts of waste in rural Alaska. She has prior experience at EPA and in research on children's health and public health impacts from climate change. Angel has also worked in multicultural environmental education and outreach, including work in facilitating discussions with teens on social and environmental justice issues, fostering youth led-projects, and bridging access to the arts and the outdoors. She continues to volunteer her time with local environmental justice organizations in Seattle. Angel earned graduate degrees from the University of Washington in Exposure Science and Public Administration.

Jacobs, Julie: Julie has been the Brownfields Redevelopment Specialist for the Saint Regis Mohawk Tribe Environment Division since 2015. Before becoming the Brownfields Redevelopment Specialist, she was the Outreach Coordinator for the SRMT Environment Division beginning in 2009, working with programs such as air quality, water quality and fish advisory, Brownfields, pesticides, climate change and solid waste. She is a retired teacher and elementary school principal, who holds degrees from SUNY Canton; a BA and Masters in Education from SUNY Potsdam; and a BA in History, Masters in Administration, and NYS Certification in Administration from St. Lawrence University. Recently completed Phase I and Phase II environmental assessments on local Brownfields sites.

Jacobson, Ted: Solid Waste Tribal Liaison; 30 years in the waste industry the last 12 assisting tribes with solid and hazardous waste management, also a presenter and trainer for best management practices. Helped to develop the RALO and RALA (Rural Alaska Landfill Operator/Administrator)Training's and developed the OHEL (Operating Heavy Equipment Landfill) Training. I love this work!

Johnson, Adam: Adam is a former environmental sciences faculty member at Salish Kootenai College (SKC). During his time at SKC, Adam worked with tribal elders, cultural leaders, educators, and others to develop a culturally-responsive geo-

sciences curriculum that focuses on important Flathead Reservation places and landscapes. He has also worked for the U.S. Geological Survey, the National Park Service, and the U.S. Forest Service. As a consulting hydrogeologist and environmental scientist, Adam specializes in projects relating to water resources, environmental assessments, brownfields, and waste management. He has helped develop NewFields' tribal environmental consulting practice in Montana, which involves projects with the Confederated Salish and Kootenai Tribes, the Northern Cheyenne Tribe, the Blackfeet Tribe, and the Fort Peck Tribes.

Judd, Shannon: Shannon Judd has worked as the Environmental Education and Outreach Coordinator (EEOC) for the Fond du Lac Band of Lake Superior Chippewa since 2007. As EEOC, she conducts projects and community outreach on natural resources, local foods, climate, waste reduction and recycling, renewable energy and other environmental issues.

Junker, Mark: Mark Junker has been the Tribal Response Coordinator for the Sac and Fox Nation of Missouri in Kansas and Nebraska since 2014. He holds a masters in curriculum with BA in History and Social Science from Peru State College. As a TRP he created both the Sac and Fox Emergency Response and Multi Hazard Mitigation Plan. Mark also serves on the Tribal Infrastructure Task (ITF) addressing barriers to sustainable solid waste programs, participates in the Tribal Superfund Working Group (TSFWG) and the Interstate Technology Regulatory Council (ITRC) as a member of the Advanced Site Characterization Tools team. He joined the TWAR steering committee in November of 2017. In his spare time he enjoys hunting mushrooms, camping, hiking and traveling.

Kaps, Melissa: Melissa Kaps began working in the USEPA's Office of Resource Conservation and Recovery in 2007. As a member of ORCR's Homeland Security Team, she provides support in the identification and characterization of waste generated from homeland security incidents and the management of that waste. Recently, her focus has been on promoting waste management-related planning and preparation for disasters, particularly natural disasters. Melissa graduated from Boston University in 2001, where she received a degree in Political Science with a minor in Environmental Analysis and Policy. In 2004, Melissa earned a law degree from The George Washington University Law School.

Katonica-Mule, Kim: Kim Katonica-Mule' is a Geologist with the United State Environmental Protection Agency, Office of Resource Conservation and Recovery (ORCR). Since 2006, she has been a member of the ORCR Tribal Waste Management Program Team which focuses on solid and hazardous waste management issues. Kim holds a Bachelor of Science in Geology from Syracuse University.

Kent, Tim: Mr. Kent is a Professional Geologist and has over 15 years working with the Quapaw Tribe as their Environmental Director and Remedial Project Manager on the Tar Creek Superfund Site.

King, Summer: Ms. King is the Environmental Scientist and provides essential quality control, sampling and analysis duties to the Tar Creek Superfund Site Remedial Action activities for the Quapaw Tribe. Summer has been with the Quapaw Tribe for two years, and has more than 15 years experience in the tribal environmental field.

Kissinger, Lon: Lon worked with the Washington State Department of Ecology from 1990 to 2001. There he worked on implementation of Washington State's Superfund regulation, air toxics regulations and risk assessments; regulation of contaminated sediment sites; and revision of Washington's sediment management standards. In 2001, Lon joined EPA Region 10's Office of Environmental Review and Assessment as a human health risk assessor. His focus has been on the human health risks posed by consumption of contaminants in fish, particularly for high fish consuming populations, such as Native Americans. Lon provides technical support for regional Superfund cleanup and water quality criteria efforts. Lon has also consulted with Washington and Alaska health departments in developing State fish consumption advisories. Recent work has included technical support of current and historic fish consumption surveys for Tribes in Idaho, water quality criteria development in Alaska, Idaho, and Washington, and review of EPA's revised national guidance on conducting fish and wildlife surveys.

Kloeckner, Jane: Jane Kloeckner is a Senior Assistant Regional Counsel for the US Environmental Protection Agency, Region 7 in Kansas City. In addition, Ms. Kloeckner teaches graduate students in environmental law, justice and indigenous studies at Kansas University, Adjunct Professor. She taught Environmental Law for 8 years as an Adjunct Professor of Law at the Kansas City School of Law, University of Missouri. She also taught Environment and Climate Change Law at University of Kansas Law School. At EPA Region 7, Jane serves as Senior Assistant Regional Counsel providing leadership and consultation for attorneys and clients in several practice areas including Federal Indian Law, Environmental Justice, Climate Change, National Environmental Policy Act, National Historic Preservation Act, Clean Water Act, Superfund and other statutes. She has received EPA honor awards including gold, silver and four bronze medals for service at Superfund Sites, children's health initiatives, and her work with Tribes. In addition, she has written and published numerous law review articles on Environmental and Federal Indian Law. Prior to coming to EPA, she was a practicing civil engineer in St. Louis. She received a Bachelor of Science degree in civil engineer-

ing from the University of Missouri Science & Technology, Juris Doctorate from St. Louis University School of Law and Masters of Law, LLM in Urban Law at the Kansas City School of Law, University of Missouri.

Kwok, Rose: Rose Kwok is an Environmental Scientist in the U.S. Environmental Protection Agency's Office of Water in Washington, D.C. Her primary focus is on Clean Water Act jurisdiction, including scientific support, GIS mapping, tribal consultation and engagement, and analytical support tools. She has a B.A. from Cornell University and a Master of Environmental Management from Duke University.

Laija, Emerald: Emerald Laija is an Environmental Scientist who assists in government cleanups of hazardous waste sites through the EPA Federal Facility Restoration and Reuse Office in Washington, DC. Her position includes implementing national policy, promoting consistency in cleanups, developing training materials, and developing relationships with other federal agencies and stakeholders. Before working DC, Emerald worked as a Remedial Project Manager for 8 years in EPA's Hanford Project Office in Richland, WA. She earned a Master's Degree focused in Environmental Studies from University of Nevada-Las Vegas and a Bachelor's Degree from the University of Texas at El Paso.

Luscombe, Emily: Emily Luscombe is the Environmental Director at Coyote Valley Band of Pomo Indians in Redwood Valley, CA. She graduated from Connecticut College with a BA in Environmental Studies and Anthropology and Flinders University of South Australia with a Masters in Environmental Management. Emily has worked in a variety of environmental media and is currently focusing much of her attention of the River bank stabilization and restoration project. This has led to exploration on restoration options and funding. Complex permitting processes have been navigated on this cross jurisdictional large scale restoration project.

MacCourt, Douglas: Mr. MacCourt has nearly 30 years of experience representing Native American tribes, tribal businesses and enterprises, Alaska Native Corporations, local governments and industry on all areas of environmental, energy and economic development activities on and off tribal lands across the United States. Doug has a national practice in environmental permitting, compliance and cleanup including Oregon water and land use laws, CERCLA and RCRA investigations, NEPA, Clean Water Act, Clean Air Act, Historic Preservation Act and other federal, state and tribal laws.

McCartney, Terri: Terri McCartney serves as the Environmental Director for the Hopland Band of Pomo Indians, where she assists in implementing an array of environmental programs.

McLain, Jennifer: Jennifer McLain has 20 years of experience as a risk manager at the Environmental Protection Agency both in the Office of Water and in the Office of Pesticide Programs. She is currently the Acting Deputy Office Director of the Office of Ground Water and Drinking Water. Most recently, she led the assessment and registration of antimicrobial pesticides, including disinfectants. During her previous stint in the Office of Ground Water and Drinking Water, Jennifer led the development of national drinking water regulations for microbial pathogens, disinfectants and disinfection byproducts. Jennifer joined EPA after earning a Bachelor of Science degree from the University of Notre Dame and a Ph.D. in Chemistry from Princeton University.

McMonagle, Rick: Rick McMonagle is the Region 10 SEE/ Tribal Solid Waste Liaison . Rick works with tribes within Idaho, Oregon, and Washington to provide technical assistance and training on all facets of sustainable solid and hazardous waste management. He directly supports tribes with individual waste management concerns, provides information on resources, and assists with program development.

Mitchell, Tyrone (Earl): As an staff member for the Hopland Band of Pomo Indians tribal environmental office, Earl implements a full range of environmental responsibilities. He is developing in-house expertise and training tribal staff and members on sustainable tribal environmental practices including deconstruction, materials salvage, and mid-scale community composting.

Moore, Joanne: Joanne Moore has been the EPA R10 Tribal Coordinator for ten years and at the agency for 25 years. She serves as the R10 Tribal Representative for Brownfields, Site Assessment, CERCLA/Superfund and Emergency Management programs.

Muela, Stephen: Stephen Muela is currently an ORISE participant at the USEPA working on environmental assessments and hydrologic modelling projects. He has his MS in Water Management and Hydrologic Science (WMHS) from Texas A&M University.

Naha, Cynthia: Cynthia Naha is the Director of Natural Resources Department for the Santo Domingo Tribe and is an enrolled member of the Hopi Tribe and is Tewa and Ihanktowan Dakota Oyate (Yankton Sioux). She has been involved in Tribal Environmental Programs since 2005 when she started working for the Inter Tribal Council of Arizona, Inc. (ITCA). Since that time, Cynthia has worked in various fields, including but not limited to: solid waste, recycling, Brownfields, emergency response and preparedness, water quality, climate

ED_002087_00000470-00046

change, Unexploded Ordinances (UXO) and more. She has worked with a number of Tribes since leaving ITCA in 2008, including the Salt River Pima Maricopa Indian Community, Lone Pine Paiute Shoshone Reservation and a number of Pomo Indian Tribes in Northern California. Throughout the past 15 years, Cynthia has worked to build Tribal environmental capacity and seeks to ensure that the communities she works with and for, maintain a balance between environmental protection and public health and safety. She enjoys establishing partnerships with neighboring Tribes, Pueblos, Federal and State agencies and holds the Tribal Government seat on the New Mexico Recycling and Illegal Dumping Alliance (NM RAID) and is a Tribal Waste Response Advisory Program Steering Committee member, serving out her last term. Cynthia is a graduate of Arizona State University, where she obtained her BS in American Indian Studies. Since graduating from college in 2003, Cynthia has vowed to always work with and for Tribal Governments/Organizations in the area of environmental protection.

Nelson, Mansel: For twenty years Mansel A. Nelson, Project Director for Environmental Education, has served with the Institute for Tribal Environmental Professionals hosted at Northern Arizona University. Prior to his service with Northern Arizona University, Mansel taught community based chemistry on the Navajo Nation. Mansel helps tribal staff with environmental education leading to action.

Nichols, Nick: Born in Baltimore Maryland, Nick has been with EPA for 21 years. He is the Environmental Justice and Tribal Coordinator for the Office of Emergency Management. Nichols leads OEM tribal consultations and outreach efforts. Most of his EPA experience is with oil spill response techniques. He has worked on the BP Spill response and has served as a Community Involvement Coordinator during the Hurricane Maria response in Puerto Rico. Nick has worked on other persistent human health issues such as lead poisoning and water pollution prevention and detection. Nick's passions include helping tribes and overburdened communities to asses and mitigate their environmental hazards, riding on two wheels, and enjoying life with his teenage son.

Nguyen, Linda: Linda Nguyen serves as the Environmental Director for the Red Cliff Band of Lake Superior Chippewa as of June 2016. She has a degree in Natural Resources Management and Native American Studies from Northland College. Prior to the directorship role, she served as the Red Cliff Water Resources Program Manager from 2012-2016. As the Environmental Director, her main duties include: supporting the development and oversight of core environmental programs, developing proposals for environmental grants, and fostering compliance with federal environmental statues by developing and managing appropriate tribal programs, tribal ordinances and permits, and solid/hazardous waste disposal services.

Nurre, Deirdre: Deirdre Nurre is a Tribal Materials Management Specialist for EPA Region 9. She has worked in EPA's Superfund, Brownfields, RCRA, and UST programs. She has also worked for the Executive Office of Management and Budget, the Defense Base Closure Commission, the James Irvine Foundation and the City of New York. She earned a BA at the University of California Riverside and a Master of Public Policy at Princeton University.

O'Keefe, Susan: Susan O'Keefe is a Senior Counsel in U.S. EPA's Office of Civil Enforcement, where she advises EPA senior managers and staff on the legal and policy issues involved in addressing noncompliance in Indian country. In this capacity, she advises Regions on tribal consultation in the context of addressing noncompliance at tribal facilities, the steps to be taken to work cooperatively with tribal governments to return tribal facilities to compliance, and when it may be appropriate to pursue enforcement for the protection of human health and the environment. Currently, Susan is leading a workgroup to develop an expedited approach to resolving violations at underground storage tanks (USTs) at tribal UST facilities. Prior to serving in this role, Susan managed the civil enforcement division responsible for developing and overseeing EPA's implementation of cross-media enforcement policies, including EPA's Audit Policy and the Supplemental Environmental Projects Policy. In addition, Susan served as Deputy Director of the enforcement policy office and the Director of the RCRA Enforcement Division. Susan is a 1980 graduate of George Washington University's National Law Center, and a member of the bars of the District of Columbia and the Commonwealth of Pennsylvania.

Overmeyer, Patricia: Patricia Overmeyer is the Acting Deputy Director of the U.S. Environmental Protection Agency's Office of Brownfields and Land Revitalization (OBLR). Ms. Overmeyer has worked in U.S. EPA's Brownfields Program since January of 2002 and was instrumental in developing the program's core policies and priorities since its inception. Previously, Ms. Overmeyer served as OBLR's Team Leader for the Brownfields Policy, Research and Outreach Team, which coordinates brownfields and land revitalization research, partnerships, policy development and communications. Ms. Overmeyer coordinates EPA's biannual National Brownfields Training Conference. Ms. Overmeyer is responsible for overseeing the implementation of EPA's regulations governing required standards and practices for conducting environmental site assessments or "All Appropriate Inquiries," under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). She coordinated the development of the regulation that establishes standards

ED_002087_00000470-00047

and practices for conducting all appropriate inquiries and served as EPA's Designated Federal Official for the Agency's Federal Advisory Committee that was tasked with developing the proposed regulation on all appropriate inquiries. Prior to her tenure with OBLR, Ms. Overmeyer worked in U.S. EPA's Hazardous Waste Identification division where she was responsible for the development of regulations under the Resource Conservation and Recovery Act. Ms. Overmeyer earned her M.S. from Carnegie-Mellon's School of Urban and Public Affairs and has a B.A. in economics from Indiana University of Pennsylvania.

Pearson, Janice: Born and raised in Flint, Michigan, Janice has a B.S in Engineering and over 25 years' experience at EPA in corrective action at Leaking Underground Storage Tank Sites, RCRA Corrective Action Sites and Superfund Sites. She has 15 years of UST compliance and LUST remediation experience, 11 years in RCRA hazardous waste compliance and remediation and 2 years as a Superfund Remedial Program Manager. Janice Pearson is the Unit Chief for the Underground Storage Tank, Solid Waste and PCB Program for the United States Environmental Protection Agency in Region 8, Denver, Colorado.

Peers, Jennifer: Ms. Peers is a physical geographer with over 17 years of experience researching environmental impacts of contamination and climate change. Her work focuses on industrial contamination, impacts of mining and oil and gas production, aquatic and terrestrial toxicity, ecological services, restoration planning, ecological and human health impacts of climate change, and tribal natural resources.

Raia, Tony: Tony Raia has served as the Director of the U.S. EPA Office of Underground Storage Tank's (OUST) Release Prevention Division since January 2017. The Division is primarily responsible for implementing the 2015 Federal UST and State Program Approval regulations. This includes providing technical assistance, developing regulatory compliance assistance tools and resources, as well as disseminating national guidance. Tony started his career at EPA in 1998 working in various capacities in several programs including OECA, Brownfields, RCRA Corrective Action, and in the congressional & intergovernmental affairs department. Prior to EPA Tony served as an Officer in the U.S. Army. He has a Bachelor of Science Degree from the U.S. Military Academy at West Point, and a Master's Degree in Public Administration from New York University.

Rau, Rob: Born in St. Paul Minnesota and reared in White Plains New York, Rob has a Master's of Science in Geology and over 20 years of experience conducting contaminated site assessments and cleanups. Rob has been with the Indian Lands tanks program in EPA Region 10 since 2006.

Ridolfi, Bruno: Bruno is an environmental program manager with 40 years of experience in environmental and civil engineering, mining and construction, environmental cleanup and restoration, and policy and regulatory development. His projects include developing codes, standards, and regulations for environmental protection; developing integrated waste management programs for tribal communities in Alaska and Washington; providing technical project leadership for investigation, cleanup, restoration, and mitigation of impacts at former military and industrial sites; and crafting workable solutions for environmental remediation, mine reclamation, and waste management for tribal communities.

Ritter, Kaylene: Dr. Kaylene Ritter is an environmental scientist with more than 12 years of experience working with tribes on Superfund Remedial Investigation/Feasibility Study (RI/FS), Natural Resource Damage Assessment (NRDA), and other environmental issues at sites across the country. She has assisted tribes in assessing the environmental, health and cultural impacts of contamination at sites in the Northwest, Midwest, Central Plains, Southwest and Northeastern US. Her work ranges from assisting tribes with analyzing biological, physical and chemical data to assess impacts of contaminants to natural resources and to human health; to assessing tribal cultural and service losses associated with contamination, including impacts to hunting, fishing, gathering and traditional knowledge-transfer. In her other work, Dr. Ritter also supports tribes with evaluating the impacts of climate change and with adaptation planning. Dr. Ritter has a BS in Earth Sciences, an MS in Hydrogeology and a PhD in Geochemistry.

Roose, Rebecca: Rebecca is the Senior Advisor for the Tribal Capacity Development Team in the American Indian Environmental Office (AIEO) at US EPA Headquarters. Her work includes administering the Indian Environmental General Assistance Program (GAP) and supporting the development and implementation of EPA-Tribal Environmental Plans across all EPA regions. Prior to joining AIEO early in 2017, Rebecca spent 11 years working on Clean Water Act and Safe Drinking Water Act program development and implementation in EPA's Office of Enforcement and Compliance Assurance and the Office of Water. Rebecca earned her law degree from the University of New Mexico and her bachelor's degree in Geography, with a concentration in American Indian Studies, from Valparaiso University in Northwest Indiana. While studying at Valparaiso University, Rebecca spent a summer on the Menominee Indian Reservation as an intern providing support for the Tribal Legislature.

Roy, Rob: Rob Roy is the Environmental Director for the La Jolla Band of Luiseno Indians and has been employed by the

Tribe for over 16 years. He is responsible for the Environmental Protection Office which employs a staff of seven people working on clean water, air quality, solid waste, wastewater, natural resources, and other critical environmental and human health issues, and also works closely with the Domestic Water and other Tribal Departments. His education is in Geographic Information Systems and he previously worked for the City of San Diego Environmental Services Department. Rob received the EPA Environmental Achievement Award in 2008 for his work with solid waste management including recycling, reducing illegal dumping, hazardous and electronic waste recycling, tire cleanup, and disaster recovery. Rob works hard to foster collaboration between groups to achieve common goals and increase the scope and impact of projects. He also serves as a member of the TWAR steering committee, as an RTOC rep and RTOC Solid Waste Workgroup lead, sits on the California Integrated Regional Water Management Regional Advisory Committee, and works with the Interagency Infrastructure Task Force Solid Waste Workgroup. Rob has a passion for the natural world and goes travelling, hiking and backpacking whenever he can.

Schuldt, Nancy: Nancy Schuldt has served as the Fond du Lac Water Projects Coordinator since 1997. She has a BS in Biology from the University of Dayton, and a MA in Aquatic Ecology from the University of Kansas. She developed the Band's water quality standards and monitoring program, has directed research into fish contaminants and sediment chemistry to characterize mercury impacts to Fond du Lac Band members, collaborated on research into wild rice ecology and toxicity, as well as watershed hydrologic modeling to inform management and restoration efforts. She participates in numerous local, regional, national and binational working groups to ensure the tribal perspective is represented. She initiated the tribe's nonpoint source management program, and leads the Band's environmental review of mining and energy industry impacts to trust resources.

Shannon, Anahma: Anahma Shannon is the Environmental Program Director for Nome, Alaska's Native non-profit, Kawerak, Inc. She has been part of a statewide group called the Solid Waste Alaska Taskforce since 2014 and has helped to develop the Backhaul Alaska Program

Shuman, Ben: Ben Shuman is a Senior Engineer in the Division of Sanitation Facilities Construction at the Headquarters of the Indian Health Service, where he has been since June 2017. Ben obtained his BS in Environmental Resources Engineering at Humboldt State University in Arcata, California and his MS in Engineering and Environmental Management from the Air Force Institute of Technology at Wright-Patterson Air Force Base, Ohio. He has 24 years of Federal service including 19 years with Rural Development at the US Department of Agriculture. Ben is a licensed Professional Engineer in Maryland and is a certified Project Management Professional.

Snitgen, Jim: Jim received both his Bachelors in Biology and Masters in Aquatic Biology from Northern Michigan University. He has worked in the field of aquatic biology for 26 years as a consultant conducting fisheries research, a taxonomist identifying benthos from the Great Lakes and from streams across the country for the U.S. EPA. He was a regulatory biologist for the state of Florida and a researcher at the Lake Superior Research Institute. Jim has been with the Oneida Environmental, Health and Safety Division since 1999. He has published numerous peer reviewed publications in the area of aquatic macro-invertebrate community analysis and ecology, as well as presenting nationally on the comprehensive monitoring of restoration projects using biological indicators. Jim has successfully implemented nine stream restoration projects in the Green Bay watershed, including the removal of the Duck Creek Dams, the restoration and reintroduction of brook trout to Trout Creek, and the restoration of fish passage to Lancaster Brook. He takes advantage of the rewarding opportunity to both continue research but also implement restoration projects and interact with the community via outreach activities.

Soscia, Mary Lou: Mary Lou is the Columbia River Coordinator for the U.S. EPA Region 10 Office of Water and Watersheds. Mary Lou leads the Columbia River Toxics Reduction Strategy, the Columbia River Toxics Reduction Working Group, and the implementation of the 2010 Columbia River Basin Toxics Reduction Action Plan. She also led the collaboration for the Oregon Water Quality Standards human health criteria. Since 2013, Mary Lou has led the collaboration with Idaho Tribal Governments to address Idaho human health criteria revisions and develop the ID Tribal Fish Consumption Survey. Mary Lou is also the EPA workgroup manager for the Tribal Baseline Water Quality Standards work effort to promulgate federal water quality standards for tribal reservations without EPA approved standards.

Staniec, Carol: Carol has over thirty five years of experience with both State and Federal regulatory agencies. Has worked in all water programs, bio solids management, monitoring and inspections, multimedia programs, and currently works in RCRA, with renewable energy and waste diversion as a focus. Carol has worked with the native Indian tribes, on a number of different programs, including groundwater monitoring of old landfills, and waste audits at the reservation and the casinos.

ED_002087_00000470-00049

Carol continues to work on national guidance involving anaerobic digestion and food reduction.

Stout, Sherry: Sherry is an engineer in the Integrated Applications Center at NREL. Much of Sherry's work at NREL focuses on energy development with American Indian Tribes and Alaska Native Villages, including energy and resilience planning, resource assessment, microgrid assessment, and energy development for economic development. Sherry also works on international programs where she focuses on grid integration of distributed renewable generation, energy/water nexus issues, energy system resilience, and interconnection processes. Sherry also works on resilience issues including distributed generation and microgrids for energy system resilience and development of resilience frameworks and best practices.

Suter, Laurie: Ms. Laurie Suter's background includes environmental laboratory administration, geology, minerals exploration, oil and gas, soils analysis, and biology. As the Mineral Resources Administrator of the Natural Resources Department for the Tohono O'odham Nation, a federally recognized tribe located in southern Arizona consisting of 2.8 million acres of desert terrain, her duties include monitoring all mining related activities. Ms. Suter has been a member of NTTC since 2016.

Swisher, Kristi: Kristi Swisher, a U.S. Army veteran, is a University of Washington graduate with a BS in Biology. Her focus was on environmentalism and public health. She is now an ORISE Fellow with the EPA, working with a team as a community engagement researcher to develop a tool for improved sustainability in small and rural populations. Her approach to community engagement intersects environmental science with social justice to ensure inclusion of under-served communities in sustainability and public health efforts.

Techlin, Troy: As the Environmental Response Program Specialist for the Saginaw Chippewa Indian Tribe of Michigan, I run the 128(a) Brownfields program. I also have 5 year of environmental consulting experience dealing with spill response, gas station clean-ups, pipeline spills and chemical facilities.

Thomas, Ben: Ben has been working with tank operators, regulators, inspectors and service providers since 1986. He was first a regulator and now is an independent consultant and senior trainer with UST Training. Currently he provides UST operators with motivational training throughout the United States. Ben lives on Whidbey Island, near Seattle Washington.

Thomas, Nick: Nick is a partner with Ogden Murphy Wallace, PLLC in Seattle WA and a member of the Tribal Government Practice Group. Nick is an experienced litigator and has represented tribes in both administrative and judicial proceedings.

Thompson Duffy, Holly: Holly Thompson Duffy is an Environmental Protection Specialist for the Portland Area Indian Health Service. She serves the 43 federally recognized Tribes in WA, ID and OR through an Interagency Agreement with the U.S. EPA. Through this program she provides pest and pesticide risk reduction services to protect and enhance public health and the environment.

Wilson, Winona: Wenona Wilson is the acting Senior Tribal Policy Advisor for the Environmental Protection Agency, Region 10. She joined EPA in 2000 and has served in numerous leadership positions in Regions 9 and 10, including as the manager of the tribal air and waste programs, diesel program, environmental justice and community involvement programs, and children's health program. Wenona is a member of the Colville Confederated Tribes, Chelan Band. Before joining EPA, she worked for her own tribe as the Land Use Administrator. She holds a Master's Degree in City Planning, with emphasis in community development.

Wright, Felicia: Felicia Wright is the Acting Director of EPA's American Indian Environmental Office, in the Office of International and Tribal Affairs, where she is responsible for working with tribal governments and EPA programs and Regions to ensure protection of human health and the environment in Indian country. As Acting Director, Ms. Wright is responsible for managing EPA's largest tribal grant program, the Indian Environmental General Assistance Program (GAP), to support tribes building capacity to administer environmental programs, and ensuring EPA implementation of federal environmental laws consistent with the federal trust responsibility, the government-to-government relationship, and EPA's 1984 Indian Policy. Prior to this position, Felicia was in EPA's Office of Water for six years, where she served as senior advisor to the Assistant Administrator and Deputy Assistant Administrator on tribal policy and program implementation. For over ten years, Felicia served as the Tribal Program Manager for EPA's Office of Land and Emergency Management. She has an MS in Environmental Science and Engineering from Virginia Polytechnic and State University, and a BS in Geology from Kansas University.

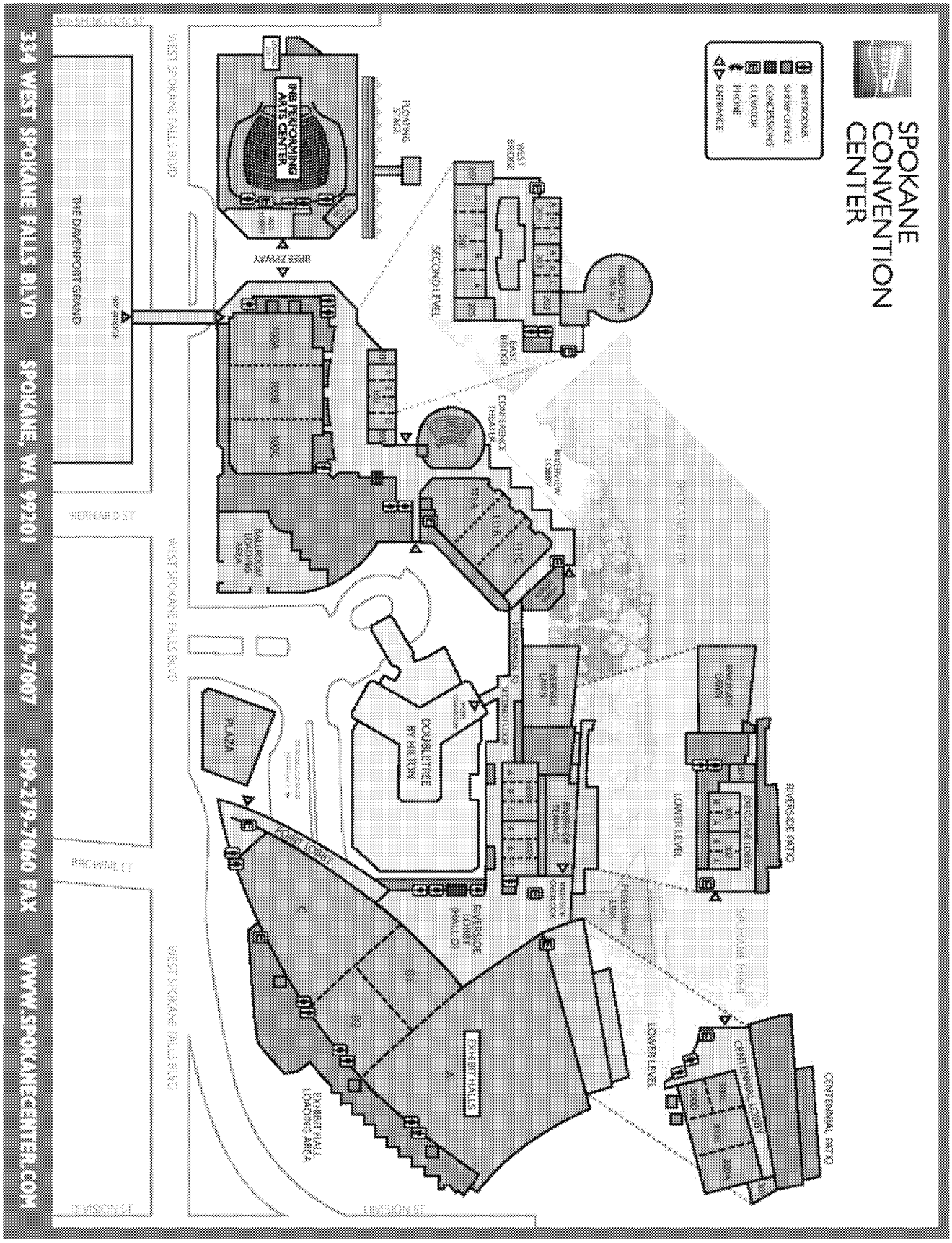
Zender, Lynn: Dr. Lynn Zender has been working in the field of Tribal solid waste management since the mid-1990's when she conducted her Environmental Engineering doctoral work on the unique circumstances that Tribes face in carrying out environmental programs. She is the director of Zender Environmental Health and Research Group and the Rural Alaska Community Environmental Job Training Program. Proud to be a member of the Solid Waste Alaska Taskforce Executive Board, she lives in Anchorage with her family where they especially enjoy camping and hiking.

ED_002087_00000470-00050

Notes

ED_002087_00000470-00051

Spokane Convention Center



Notes

Thank You to Our Silver Level Sponsor!

BMI
Backflow Management Inc.

THE ONLY NAME YOU NEED TO KNOW

for

BACKFLOW PREVENTION, CROSS CONNECTION CONTROL and SAFE DRINKING WATER ACT COMPLIANCE

TRAINING ♦ CONSULTING ♦ BUSINESS TOOLS ♦ SUPPORT

✓ **Training:** BMI's Instructors have been called the best in the industry. We teach on many different topics. Classes can be held at our facility or yours. We can even coordinate CEUs.

✓ **Cross Connection Control and Backflow Prevention Programs:** We assist water systems and companies of all sizes to set up simple, sound, legally-defensible programs. We're also available for ongoing support when and how you need it.

✓ **Software:** BMI Cross-Track® programs are a valuable tool to help you work smarter, not harder. When you invest in our user-friendly Microsoft Access based software, unlimited technical support is free!

✓ **Water Quality:** Trust BMI to keep your system in compliance. We can troubleshoot issues, collect samples, prepare reports and submit information to the necessary agencies as required.

Family owned and operated since 1991

CONTACT BMI TODAY
800.841.7689
bmi@bmibackflow.com

VISIT US ONLINE
www.bmi-backflow.com

~Exhibit Hall B-1~

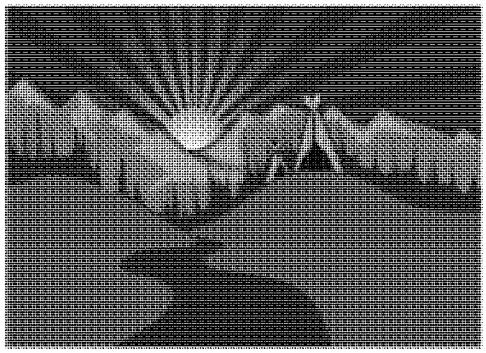
We want to give our exhibitors a very big thank you for attending this year's TLEF. The following groups and businesses will have tables set up in the Exhibit Hall B-1 throughout the TLEF, and many will also participate in the Multi Media Meetup.

- BNSF Railway – Platinum Level Sponsor
- Sundance Consulting—Gold Level Sponsor
- Abt – Silver Level Sponsor
- Alta Science and Engineering – Silver Level Sponsor
- AWQMS/Gold Systems – Silver Level Sponsor
- BMI – Silver Level Sponsor
- NewFields – Silver Level Sponsor
- National Tribal Toxics Council – Silver Level Sponsor
- USTTraining – Silver Level Sponsor
- Ammonite Ink
- Cassy's Art's & Craft
- Inter Tribal Council of Arizona
- Kansas State University Technical Assistance to Brownfield Communities
- Mission Enterprises
- National Indian Carbon Coalition
- NRDAR, Dept. of Interior
- Region 10 Tribal Operations Committee
- RIDOLFI/EcoChem
- Shortman Native Art
- Soaring Eagle Gallery
- Southwest Jewelry
- Spirit Dancer
- TK Authentic Gifts
- US Environmental Protection Agency

ED_002087_00000470-00054

Thank You to Our Platinum Sponsor

Thank You to Our Gold Sponsor



Sundance
Consulting Inc.

Special Thanks...

ITEP would like to extend a special thanks to the Tribal Waste and Response Steering Committee who helped plan, orchestrate and otherwise make this TLEF a success! Thanks also goes out to the Upper Columbia River Basin Tribes for their wonderful assistance and hospitality!

Institute for Tribal Environmental Professionals
Northern Arizona University
Box 15004
Flagstaff, AZ 86011
Ph: 928-523-9555
Fx: 928-523-1266

www7.nau.edu/itep/main/Home/

Please recycle this booklet

Return this booklet to the Registration Table for easy recycling, or recycle it when you're done by placing in a recycling bin. Thank you!

Message

From: Konkus, John [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=555471B2BAA6419E8E141696F4577062-KONKUS, JOH]
Sent: 7/28/2018 8:20:15 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Grantham, Nancy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=12a3c2ed7158417fb0bb1b1b72a8cfb0-Grantham, Nancy]
Subject: Re: New York Times follow-up query re: Peter Wright

Thanks

On Jul 28, 2018, at 3:58 PM, Wright, Peter <wright.peter@epa.gov> wrote:

John and Nancy

I have not replied and do not plan on replying.

Peter

Sent from my iPhone

Begin forwarded message:

From: "Tabuchi, Hiroko" <hiroko.tabuchi@nytimes.com>
Date: July 28, 2018 at 5:55:32 AM EDT
To: "Wright, Peter" <wright.peter@epa.gov>, Tryggvi Adalbjornsson <tryggvi.adalbjornsson@nytimes.com>
Subject: Re: New York Times follow-up query re: Peter Wright

Mr. Wright, we also wanted to run these background details past you. Let us know if you have any clarifications. Thanks, Hiroko

You grew up in Los Angeles, went to Wabash College in Indiana before graduating from law school at Indiana University.

On your Facebook page, you show an interest in mixology and in 2016 wrote about fashioning a drink in honor of your fellow environmental attorneys at the ABA.You described one of the ingredients, green Chartreuse: "The natural green color and the herbal, earthy flavor reminds one of the earth."

Hiroko and Tryggvi

Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 | hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi

On Fri, Jul 27, 2018 at 6:07 PM, Wright, Peter <wright.peter@epa.gov> wrote:

Ms Tabuchi

I would like to refer you to my colleagues John and Nancy who I know you

have been working with on your story.

Regards,

Peter Wright

Sent from my iPhone

On Jul 27, 2018, at 6:01 PM, Tabuchi, Hiroko <hiroko.tabuchi@nytimes.com>

wrote:

Mr. Wright, I wasn't sure whether this email address was already working --

but I wanted to make sure you were aware of our questions to EPA regarding

your appointment to the assistant administrator job. Let us know if you had

any comments or are able to speak with us. Thanks, Hiroko

Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 |

hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi

---------- Forwarded message ----------

From: Tabuchi, Hiroko <hiroko.tabuchi@nytimes.com>

Date: Wed, Jul 25, 2018 at 1:51 PM

Subject: New York Times follow-up query re: Peter Wright

To: "Hewitt, James" <hewitt.james@epa.gov>

Cc: Tryggvi Adalbjornsson <tryggvi.adalbjornsson@nytimes.com>

Dear James,

Thanks again for getting me on the phone with Kevin Minoli regarding

Peter Wright's nomination to become E.P.A. assistant administrator.

Here are a series of facts and factual assertions and questions based

on further reporting on Mr. Wright.

Our overall assertion is that Mr. Wright helped lead a team at Dow

accused by regulators and Dow's own staff of submitting disputed data

on dioxin contamination, misrepresenting scientific evidence, and

delaying the cleanup at one of the country's most toxic sites.

We welcome responses to these questions individually and any

clarifications or disagreements with factual assertions as well.

Finally, we welcome any on the record statement you want to make. We

ask for responses by EOB tomorrow (Thursday).

Hiroko and Tryggvi

212-556-2642 (Hiroko direct line)

917-615-4180 (Hiroko cell)

FACTUAL ASSERTIONS:

++Mr. Wright was born in LA and spent 19 years at Dow. Before Dow, he

was employed by Monsanto. In 2003, he was named to the Michigan Dioxin

Initiative, a five-person executive team at Dow tasked with designing

and negotiating the details of a cleanup of dioxin and other

contamination in the Tittawbassee and Saginaw watersheds. That river

network flows some 50 miles into Lake Huron. Mr. Wright was the only

lawyer on the team, and led its legal strategy.

++Mr. Wright has pointed to his work on the Michigan site as his

biggest accomplishment. In a 2017 email to the E.P.A.'s chief of staff

Ryan Jackson, Mr. Wright called it "the most controversial matter and

single most publicly successful matter that I have worked on at Dow."

++DowDuPont has at least partial responsibility at 171 locations

nationwide, or almost 14 percent of all sites on the E.P.A.'s list of

priority Superfund cleanups, according to E.P.A. data.
QUESTION:

According to our analysis of the data, DowDuPont is linked to more NPL

Superfund sites than any other company. Is this in line with E.P.A.'s

analysis?

++In 2004 and 2005, state and federal officials twice discovered Dow

contractors collecting soil samples along the Tittabawassee without

telling regulators, which violated a Dow operating license. The

unauthorized sampling not only prevented regulators from verifying

Dow's results, state officials warned, but could enable Dow to

identify hotspots in order to downplay them when designing cleanup

plans. Mr. Wright was one of three Dow representatives on a May 2005

phone call with the E.P.A. and the M.D.E.Q. instructing the company to

abide by the rules. Later, Michigan fined Dow $70,000 for the

unauthorized sampling.

++Dow newsletters in 2004 to local residents stated that few health

effects were tied to dioxin exposure, an assertion the E.P.A. has

taken issue with. A study released by Dow also found that wild game —

deer, turkey, squirrel — had elevated dioxin levels but was safe to

eat. Michigan's health department disagreed and warned people not to

eat the meat.

++Mr. Wright separately authored an article in 2005 on dioxin risk in
the American Bar Association's Natural Resources and Environment,
describing dioxin as "highly toxic to a variety of animal species but
not to humans." This goes against the opinion of several dioxin
experts we spoke to.

++Mr. Wright also participated in discussions with researchers and
regulators about a Dow-funded study at the University of Michigan that
had found that living on dioxin-contaminated soil was not associated
with higher dioxin levels in the body. (E.P.A. officials at the time
believed the study "was initiated at the request of Dow in order to
downplay the risks of exposure.")

++Mr. Wright's team was criticized by E.P.A. in the mid-2000s for
stalling on the cleanup. ("E.P.A. is concerned with Dow's lack of
progress in addressing the significantly elevated levels of dioxin and
furan contamination in the Saginaw Bay watershed," a June 2007 E.P.A.
memo states.)

++In 2006, an independent lab testing company hired to validate Dow's
data on contamination rejected Dow's numbers. The company, Project
Enhancement Corporation, terminated its contract with Dow, citing the
chemical company's "major technical noncompliance," and a "breakdown"
in Dow's testing procedures, according to the termination letter it
sent to Dow.

++Priscilla Denney, a senior environmental engineer on Mr. Wright's
team, warned Dow about PEC's concerns. (Dow had changed the way it
submitted its data while she was on maternity leave, making it

impossible for a third party to validate Dow's results, particularly those that showed no levels of contamination.) She later claimed in a whistleblower suit that her concerns about Dow's data were ignored and that she had been demoted in retaliation. Mr. Wright, who was deposed as part of the case, said he helped investigate Ms. Denney's concerns. In the deposition, he also calls himself Dow's "dioxin lawyer."

++Dow submitted the data to the Michigan environmental regulator and to the E.P.A. in February 2007 without mentioning PEC's concerns

++In May 2008, then E.P.A. Region 5 administrator Mary Gade was forced to resign, after Dow appealed to officials in Washington, according to emails that have since been made public. Ms. Gade told the Chicago Tribune at the time that "there was no question" she had been pushed out because of pressure from Dow.

QUESTIONS:

++Does E.P.A. believe that any of the above in any way affect the suitability of Mr. Wright's appointment to the OLEM role, or his ability to carry out his tasks on the job?

++Some environmental groups have criticized Mr. Wright's appointment, saying Dow's exposure to Superfund sites presents a major conflict of interest. Is this a fair assertion?

++When does E.P.A. expect the Michigan dioxin cleanup to be complete?

++What role did Dow play in the appointment of Mr. Wright to the

E.P.A. assistant administrator role?

++Any other on-the-record statement regarding the above?

Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 |

hiroko.tabuchi@nytimes.com |
http://www.nytimes.com/by/hiroko-tabuchi

Message

From: Leopold, Matt (OGC) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4E5CDF09A3924DADA6D322C6794CC4FA-LEOPOLD, MA]
Sent: 8/1/2018 3:47:56 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; McIntosh, Chad [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e328de48699c4747ad3a421e3aa5e850-McIntosh, W]
Subject: Fwd: Senate panel advances four environmental nominees

Congrats to you both. Here's hoping for a swift confirmation.

Sent from my iPhone

Begin forwarded message:

From: "POLITICO Pro Energy Whiteboard" <politicoemail@politicopro.com>
Date: August 1, 2018 at 9:41:53 AM CDT
To: <leopold.matt@epa.gov>
Subject: Senate panel advances four environmental nominees
Reply-To: "POLITICO subscriptions" <reply-fe8b1376756c027574-1159543_HTML-878713253-1376319-0@politicoemail.com>

By Anthony Adragna

08/01/2018 10:40 AM EDT

The Senate Environment and Public Works Committee advanced four nominations to various EPA, White House and Commerce roles on largely party-line votes.

Lawmakers advanced the nominations of:

—Peter Wright to be assistant EPA administrator for the Office of Land and Emergency Management on a 11-10 vote;
—Mary Neumayr to lead the White House Council on Environmental Quality on a 11-10 vote;
—Charles McIntosh to be assistant EPA administrator for the Office of International and Tribal Affairs on a 11-10 vote; and,
—Former Louisiana Rep. John Fleming to serve as assistant secretary of Commerce for economic development on a 15-6 vote.

Democrats voiced concern over potential conflicts of interest for Wright given his work for Dow Chemical Co. and Neumayr's views on ocean policy and changes to the National Environmental Policy Act.

WHAT'S NEXT: The four nominees join a list of executive branch nominees awaiting floor action on their selections.

To view online:
https://subscriber.politicopro.com/energy/whiteboard/2018/08/senate-panel-advances-four-environmental-nominees-1707275

You received this POLITICO Pro content because your customized settings include: Energy: EPA. To change your alert settings, please go to https://subscriber.politicopro.com/settings

POLITICOPRO

This email was sent to leopold.matt@epa.gov by: POLITICO, LLC 1000 Wilson Blvd. Arlington, VA, 22209, USA

Message

From: Indermark, Michele [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CF63A0730B3E4D89AA3B8CE9A5D9EAB2-INDERMARK,]
Sent: 8/9/2018 3:59:09 PM
To: Cheatham, Reggie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c04c7b4fbf4d45108592282991c719cb-RCheatha]; Bennett, Tate [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1fa92542f7ca4d01973b18b2f11b9141-Bennett, El]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Gioffre, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31f5c89e985847ecaeec14283e8fc914-PFLEMI02]; Jacob, Sicy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6444719f31d44818afb6bdd6369735bc-sjacob]; Jennings, Kim [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7eeab2bece9b461e949b23d538b7964a-kjenning]
Subject: RE: CERCLA Reporting Rule
Attachments: OLEM-CERCLA-EPCRA REPORTING REQUIREMENTS.Aug 2018_v3.docx

Tate – apologies for the multiple versions, but this version is slightly updated to include the events of this past week. Please let us know if you need anything else.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Indermark, Michele
Sent: Thursday, August 09, 2018 8:46 AM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>
Subject: RE: CERCLA Reporting Rule

Hi All,

I'm providing the final paper we submitted for Andrew Wheeler's hearing on 1 Aug. Deliberative Process / Ex. 5 Deliberative Process / Ex. 5 and I've attached it for your use. Please let us know if you need anything else.

Michele Indermark
OLEM/OEM

Special Assistant
(w) 202-564-0794

From: Cheatham, Reggie
Sent: Thursday, August 09, 2018 8:39 AM
To: Bennett, Tate <Bennett.Tate@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: RE: CERCLA Reporting Rule

Folks….please disregard the attachments I sent….we discovered a version control problem…Michele is sending the final versions.

Thanks

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202.564.8003 (O); 202.689.9400 (M);
cheatham.reggie@epa.gov
Doris Williams, Executive Assistant
202.564.0053

From: Cheatham, Reggie
Sent: Thursday, August 09, 2018 8:26 AM
To: Bennett, Tate <Bennett.Tate@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: RE: CERCLA Reporting Rule

Tate

Attached is the CERCLA/EPCRA white paper we did for the Administrator's SEPW hearing. This has been cleared by OGC.

Additionally, here is the Q and A we drafted, in case this comes up:

Deliberative Process / Ex. 5

Let us know if you need any additional information.

Thanks

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202.564.8003 (O); 202.689.9400 (M);
cheatham.reggie@epa.gov
Doris Williams, Executive Assistant
202.564.0053

From: Bennett, Tate
Sent: Thursday, August 09, 2018 7:45 AM
To: Wright, Peter <wright.peter@epa.gov>
Cc: Cheatham, Reggie <cheatham.reggie@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: Re: CERCLA Reporting Rule

Great. Can you pass it along?

On Aug 9, 2018, at 7:36 AM, Wright, Peter <wright.peter@epa.gov> wrote:

> All
>
> We prepared a summary on this topic for the Administrator's Senate hearing briefing book.
>
> Peter
>
> Sent from my iPhone
>
> On Aug 8, 2018, at 8:56 PM, Cheatham, Reggie <cheatham.reggie@epa.gov> wrote:
>
>> Got it Tate
>>
>> Thanks
>>
>> Reggie Cheatham, Director
>> Office of Emergency Management, USEPA
>> 202/564-8003(o)/202/689-9400
>> Doris Williams, Executive Assistant
>> 202/564-0053
>>
>> On Aug 8, 2018, at 8:54 PM, Bennett, Tate <Bennett.Tate@epa.gov> wrote:
>>
>>> Thank you. No need to recreate the wheel, just something similar to what was covered in our official press release.
>>>
>>> On Aug 8, 2018, at 8:53 PM, Cheatham, Reggie <cheatham.reggie@epa.gov> wrote:
>>>
>>>> We will get talkers to Tate
>>>>
>>>> Thanks
>>>>
>>>> Reggie Cheatham, Director

Office of Emergency Management, USEPA
202/564-8003(o)/202/689-9400
Doris Williams, Executive Assistant
202/564-0053

On Aug 8, 2018, at 6:53 PM, Cook, Steven <cook.steven@epa.gov> wrote:

> Can someone help out here since I am wandering the left coast ?
>
> Sent from my iPhone
>
> Begin forwarded message:
>
> > **From:** "Bennett, Tate" <Bennett.Tate@epa.gov>
> > **Date:** August 8, 2018 at 1:21:44 PM PDT
> > **To:** "Cook, Steven" <cook.steven@epa.gov>
> > **Cc:** "Dickerson, Aaron" <dickerson.aaron@epa.gov>, "Lovell, Will (William)" <lovell.william@epa.gov>
> > **Subject: CERCLA Reporting Rule**
> >
> > Hi Steve! Do you have any FARM Act Talking Points we can include in the Admin's binder for Iowa? I believe this may come up Monday as I just learned the cattlemen will attend. He is leaving tomorrow for the weekend, so I would need the talkers by noon. Apologies for the late notice! Worst case, the press release may work....copying Will too in case he has anything.
> >
> > Elizabeth Tate Bennett
> > Associate Administrator
> > for Public Engagement

& Environmental
Education
Office of the
Administrator
U.S. Environmental
Protection Agency
(202) 564-1460
Bennett.Tate@epa.gov

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/30/2018 10:40:53 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]
Subject: FYI: Final OLEM Fact Sheets for Wheelers Background Book
Attachments: OLEM-3 Lead Exposure at SF Sites.OLEM.docx; OLEM-2 Brownfields.docx; OLEM-3 Lead Exposure at SF Sites.docx; OLEM-8 CERCLA-EPCRA Ag Reporting.docx; OLEM-5 CWA Haz Subs Rule.docx; OLEM-6 UST Regs and State Programs_.docx; OLEM-7 CERCLA FINANCIAL RESPONSIBILITY.docx; OLEM-9 Emanifest.docx; OLEM-10 FED FACILITY cleanups.docx; OLEM-11 Preparation for 2018 Hurricane Season.docx; OLEM-13 ROLE OF STATES IN SUPERFUND PROGRAM.docx; OLEM-12 ADDRESSING EXTREME WEATHER AT SUPERFUND SITES.docx; OLEM-1 CCR rule.v2.7-30-18.docx; OLEM-4 Chem Facility RMPv2.7-30-18.docx; OLEM-14-G R2-NY-HUDSON RIVER SUPERFUND SITE.DOCX; OLEM-14-L R4-I MS-MISSISSIPPI PHOSPHATE.DOCX; OLEM-14-E R2-NJ-BERRYS CREEK STUDY AREA.DOCX; OLEM-14-F R2-NY-HOOSICK FALLS SITES.DOCX; OLEM-14-M R7- IA-Des Moines TCE site (002).docx; OLEM-14-A R1-Centerdale Manor Superfund Site July 2018 (002).docx; OLEM-14-H R3-Delaware Sites-Carper.docx; OLEM-14-C R2- NJ- PASSAIC RIVER.DOCX; OLEM-14-B R2-NJ-American Cyanamid.docx; OLEM-14-O R10-OR-PORTLAND HARBOR SUPERFUND SITE.DOCX; OLEM-14-M R7- IA-Des Moines TCE site.docx; OLEM-14-D R2- NJ-LOWER HACKENSACK RIVER.DOCX; OLEM-14-A R1-Centerdale Manor Superfund Site July 2018.docx; OLEM-1 CCR rule.AdminTPsfinal.docx; OLEM-4 Chem Facility RMP.Admin.TPsfinal.docx; OLEMQUESTIONSforWheelerBriefing.OGCVersion.7.27.18.docx; UpdatedOLEMFSTalkingPoints.docx

Hi Peter and Steven,

Attached are the final OLEM fact sheets for Wheeler's background book – in case you need them tomorrow. I've also attached the:

- List of OLEM questions and answers
- Two short "cheat sheets" on RMP and CCR, and
- OLEM's original consolidated list of talking points.

Please let me know if you have any questions or need anything else on this.

Thanks.
Jackie

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Levine, Carolyn
Sent: Friday, July 27, 2018 5:08 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: HQ issue papers

Carolyn Levine
Office of Congressional and
Intergovernmental Relations
U.S. EPA
(202) 564-1859
levine.carolyn@epa.gov

BROWNFIELDS PROGRAM

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.

KEY POINTS:

- Since 1995, grants awarded by the program have led to over 76,000 acres of idle land made ready for productive use, and leveraged over 138,000 jobs and $26.4 billion.

- 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.

TALKING POINTS:

- Ex. 5 Deliberative Process (DP)

ED_002087_00000508-00001

CHEMICAL FACILITY SAFETY - RISK MANAGEMENT PLAN (RMP)

BACKGROUND:

- The Clean Air Act (112(r)) requires that facilities handling more than a threshold quantity of certain extremely hazardous chemical substances implement a risk management program. EPA has identified approximately 12,500 RMP facilities.
- A facility RMP program contains three elements: a hazard assessment, a prevention program, and an emergency response program which are described and documented in their RMP submitted to EPA.
- EPA published the RMP Amendments rule on January 13, 2017, to be effective on March 14, 2017. This rule modified and added provisions to the original rule regarding the prevention of accidental releases, emergency response preparedness, and public sharing of information.
- EPA received three Petitions for Reconsideration from impacted industry and a group of states raising concerns that the final rule created security risks and is unduly burdensome. EPA agreed to conduct a reconsideration proceeding, and issued a final rule extending the effective date of the RMP Amendments rule to February 19, 2019.
- EPA published a Notice of Proposed Rulemaking to reconsider the RMP Amendments, with public comments accepted through August 23, 2018. Ex. 5 Deliberative Process (DP)
- Ex. 5 Deliberative Process (DP)

KEY POINTS:

- Ex. 5 Deliberative Process (DP)
-
-

(over for Talking Points)

ED_002087_00000512-00001

TALKING POINTS:

-
-
-
-
- Ex. 5 Deliberative Process (DP)
-
-
-
-

CENTERDALE MANOR SUPERFUND SITE- RI

BACKGROUND:

- The Centredale Manor Superfund site consists of a nine-acre parcel located along the Woonasquatucket River in North Providence, RI, as well as a 1.5-mile stretch of river, including two ponds, riverbanks on residential properties, and a large forested wetland.

- Site soils, sediments, fish/biota, and groundwater are contaminated with high levels of dioxin and other contaminants.

- The site was added to the NPL in 2000 after dioxin was discovered in fish. Several short-term cleanups to control immediate risks have been performed by EPA and the state. In September 2012, EPA issued its cleanup decision in its Record of Decision.

- Since 2011, EPA has been in litigation with Black & Decker. In 2014, EPA issued a unilateral administrative order to Black & Decker directing it to conduct the cleanup. In September 2015, the District Court for the District of Rhode Island found Black & Decker jointly and severally liable as a past operator.

- In August 2017, the Court issued a decision in the second phase of litigation, upholding EPA's remedy in large part and stayed enforcement of EPA's unilateral order until resolution of these matters.

- On July 9, 2018, the United States lodged a Consent Decree with the U.S. District Court for the District of Rhode Island (Smith, J.) resolving our CERCLA enforcement against Emhart at this site. The State of Rhode Island is also a party to the decree. We are currently in the 30-day comment period. Following the comment period, the United States will respond to comments and move to enter the Consent Decree with the Court.

KEY POINTS:

- In December 2017, EPA included the Centredale Manor Site on the Administrator's Emphasis List because of the enforcement impasse.

- The proposed settlement resolves litigation between Emhart and Black & Decker and the United States, including the Court's recent decision requiring EPA to reconsider certain aspects of the remedy. The responsible party reimburses the government for response costs and performs the cleanup at the site, consistent with CERCLA's polluter-pays policy.

TALKING POINTS:

- Cleanup at this site has been delayed for nearly seven years due to litigation and I am pleased to say we have a proposed settlement that allows cleanup to begin.

- This is great outcome for the communities of North Providence and Johnston and moves us towards having a fishable and swimmable river for the community to enjoy.
    - ward the State's goal of a fishable and swimmable Woonasquatucket River.

ED_002087_00000522-00001

CENTERDALE MANOR SUPERFUND SITE- RI

BACKGROUND:

- The Centredale Manor Superfund site consists of a nine-acre parcel located along the Woonasquatucket River in North Providence, RI, as well as a 1.5-mile stretch of river, including two ponds, riverbanks on residential properties, and a large forested wetland.

- Site soils, sediments, fish/biota, and groundwater are contaminated with high levels of dioxin and other contaminants.

- The site was added to the NPL in 2000 after dioxin was discovered in fish. Several short-term cleanups to control immediate risks have been performed by EPA and the state. In September 2012, EPA issued its cleanup decision in its Record of Decision.

- Since 2011, EPA has been in litigation with Black & Decker. In 2014, EPA issued a unilateral administrative order to Black & Decker directing it to conduct the cleanup. In September 2015, the District Court for the District of Rhode Island found Black & Decker jointly and severally liable as a past operator.

- In August 2017, the Court issued a decision in the second phase of litigation, upholding EPA's remedy in large part and stayed enforcement of EPA's unilateral order until resolution of these matters.

- On July 9, 2018, the United States lodged a Consent Decree with the U.S. District Court for the District of Rhode Island (Smith, J.) resolving our CERCLA enforcement against Emhart at this site. The State of Rhode Island is also a party to the decree. We are currently in the 30-day comment period. Following the comment period, the United States will respond to comments and move to enter the Consent Decree with the Court.

KEY POINTS:

- In December 2017, EPA included the Centredale Manor Site on the Administrator's Emphasis List because of the enforcement impasse.

- The proposed settlement resolves litigation between Emhart and Black & Decker and the United States, including the Court's recent decision requiring EPA to reconsider certain aspects of the remedy. The responsible party reimburses the government for response costs and performs the cleanup at the site, consistent with CERCLA's polluter-pays policy.

TALKING POINTS:

- Cleanup at this site has been delayed for nearly seven years due to litigation and I am pleased to say we have a proposed settlement that allows cleanup to begin.

- This is great outcome for the communities of North Providence and Johnston and moves us towards having a fishable and swimmable river for the community to enjoy.
    - ward the State's goal of a fishable and swimmable Woonasquatucket River.

ED_002087_00000523-00001

LOWER PASSAIC RIVER SUPERFUND SITE-NJ

BACKGROUND:

- The river is contaminated with dioxin, polychlorinated biphenyls (PCBs), pesticides, mercury and other contaminants. The sediment contamination has closed fisheries, hampered local waterfront development plans, and increased the dredging costs of NY and NJ's ports.

- 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.

- In March 2016, EPA issued a record of decision (ROD) for an estimated $1.38 billion cleanup plan to address the lower 8.3 miles. Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

KEY POINTS:

-
- Ex. 5 Deliberative Process (DP)

TALKING POINTS:

-
-
- Ex. 5 Deliberative Process (DP)
-

ED_002087_00000525-00001

DES MOINES TCE SITE/ DICO, INC. -IA
ONGOING WORK AND LITIGATION

BACKGROUND:

- The Des Moines TCE Superfund Site includes a 43-acre property, owned by Dico, Inc., which contains contaminated, dilapidated buildings on-site. The site has historically been used for industrial purposes, but there is substantial redevelopment opportunity.

- Contamination at this National Priorities List site consists of Volatile Organic Compounds groundwater plumes, as well as pesticides, PCBs, and dioxin in on-site soils, buildings, and a pond. The contamination originated from on-site steel wheel manufacturing, which used TCE for degreasing, and from on-site chemical and pesticide formulation.

- Dico has historically been unwilling to perform work voluntarily at the Site. Under three separate Unilateral Orders issued by EPA, Dico performed remedial actions of 1) installation and operation of a groundwater pump and treat system; 2) capping of site soils; and 3) cleaning and encapsulation of interior building surfaces, including long-term maintenance.

- In 2010, the U.S. brought an action alleging that Dico and its corporate affiliate, Titan Tire Corporation had arranged for the disposal of the PCBs in the buildings and violated the 1994 Order pertaining to the use of the buildings. After a series of court decisions, in September 2017, the U.S. was awarded approximately $11M in past response costs, punitive damages, and civil penalties. Dico has appealed that decision to the Eighth Circuit.

KEY POINTS:

- EPA, Iowa Department of Natural Resources (IDNR), the city of Des Moines, and representatives from Titan Tire would like to see the site put back into productive reuse and are in the process of defining the remaining response costs at the site.

TALKING POINTS:

- In March 2018, the potentially responsible parties expressed an interest in entering into a settlement agreement with EPA on this site.

- EPA is working collaboratively with the City of Des Moines and the Iowa Department of Natural Resources to help put the site back into productive reuse.

- Since this matter is in litigation, I am not able to comment regarding any ongoing discussions with the potentially responsible parties.

ED_002087_00000532-00001

Message

From: Cook, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=394F5DEDE6184BC083CF9390E49A192C-COOK, STEVE]
Sent: 7/14/2018 12:06:20 AM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: RE: from DPC

Peter – my initial thought is **Deliberative Process / Ex. 5** very useful.

From: Jackson, Ryan
Sent: Friday, July 13, 2018 3:36 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>
Cc: Bolen, Brittany <bolen.brittany@epa.gov>
Subject: RE: from DPC

And here is the letter.

From: Jackson, Ryan
Sent: Thursday, July 12, 2018 11:53 AM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Peter Wright (wright.peter@epa.gov) <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>
Cc: Bolen, Brittany <bolen.brittany@epa.gov>
Subject: from DPC

The Domestic Policy Council at the WH will soon send each department and agency a letter or a memo requesting the top three to five policy priorities from our rulemaking program offices. I wanted to place this on your radar so you can help our Office of Policy best respond to that.

Ryan Jackson
Chief of Staff
U.S. Environmental Protection Agency
(202) 564-6999

OLEM Weekly Report, August 23, 2018

Hot Topics

1. **Hurricane Lane, Hawaiian Islands.** Deliberative Process / Ex. 5

   Deliberative Process / Ex. 5

2. **Coal Combustion Residuals (CCR)**. See below.

3. **Clean Air Act 112(r) Risk Management Program (RMP) Reconsideration NPRM.** The Notice of Data Availability (NODA) was published in the FR on July 24. The public comment period for the NPRM (extended 30 days from the date of FR publication of the NODA) is now until August 23.

4. **RMP Delay Rule.** On August 17, the D.C. Circuit vacated the RMP rule that delayed the effective date of the January 2017 RMP final rule to February 19, 2019. Deliberative Process / Ex. 5

   Deliberative Process / Ex. 5

5. **Ongoing major Superfund NPL sites** Deliberative Process / Ex. 5

   Deliberative Process / Ex. 5

6. **CERCLA 108(b) Financial Assurance (next three sectors).**

7. **PFAS.**

   Deliberative Process / Ex. 5

8. **e-Manifest**.

Upcoming Major Decisions and Events

1. **Environmental Council of States (ECOS) Meeting.** Several OLEM managers will participate in the ECOS meeting in Stowe, VT on August 27 – 29.
2. Deliberative Process / Ex. 5
3. **Hazardous Waste Pharmaceuticals Final Rule.** Deliberative Process / Ex. 5

   Deliberative Process / Ex. 5
4. **Hazardous Substances Spill Prevention Proposed Rule.** This rule package was published in the FR and comments are due by August 24.
5. **Coal Combustion Residuals**.
   a. The proposed rule was published in the FR on July 30.
   b. On August 21, the D.C. Circuit granted part of EPA's remand and denied other parts of EPA's remand to provisions of the 2015 final rule. The Court also vacated certain provisions petitioned by environmental groups. Deliberative Process / Ex. 5

      Deliberative Process / Ex. 5
   c.
   d. Deliberative Process / Ex. 5

Message

From: Cook, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=394F5DEDE6184BC083CF9390E49A192C-COOK, STEVE]
Sent: 7/14/2018 12:00:41 AM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: FW: Silverton/Durango follow ups

FYI – an example of the types of issues and work generated from a site visit with locals. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Chancellor, Erin
Sent: Friday, July 13, 2018 4:25 PM
To: Cook, Steven <cook.steven@epa.gov>
Subject: FW: Silverton/Durango follow ups

Did you take pics at Kittimac? I didn't, but thought you did? Will you email or text them?

Thanks!

Erin E. Chancellor
Counsel to the Administrator
U.S. Environmental Protection Agency
(202) 566-1757 (office)
Cell number/Ex. 6 (cell)
chancellor.erin@epa.gov

From: Peterson, Cynthia
Sent: Friday, July 13, 2018 10:42 AM
To: Chancellor, Erin <chancellor.erin@epa.gov>
Subject: RE: Silverton/Durango follow ups

Hi, Erin.

Thanks for keeping track of our to-do list. It saves me a lot of time going back through my notes!

I have a request – did you happen to take any pictures of the sludge management area at Kittimac? I'd like to include one in our next newsletter, but I neglected to take one myself. I have a few, but they aren't as current.

Thanks and have a great weekend!
Cynthia

Cynthia Peterson
Community Involvement Coordinator
Public Affairs and Community Involvement
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop St. (8OC-PAI)
Denver, CO 80202-1129
303-312-6879 -- direct dial
Cell number/Ex. 6 cell

From: Chancellor, Erin
Sent: Thursday, July 12, 2018 11:09 AM
To: Smidinger, Betsy <Smidinger.Betsy@epa.gov>; Thomas, Rebecca <Thomas.Rebecca@epa.gov>; Peterson, Cynthia <Peterson.Cynthia@epa.gov>; Stalcup, Dana <Stalcup.Dana@epa.gov>
Subject: Silverton/Durango follow ups

Hi y'all,

Had a great time in Colorado! Thank you all for your hard work on making it such a successful trip. I went over my notes and thought I would send over the action items I wrote down over the course of the two days. I think they mostly regional follow ups, but if there is something I need to rundown at HQ that I missed, please let me know.

EPA to do's:

Deliberative Process / Ex. 5

To note:

Deliberative Process / Ex. 5

Thanks again,

Erin E. Chancellor
Counsel to the Administrator
U.S. Environmental Protection Agency
(202) 566-1757 (office)
Cell number/Ex. 6 (cell)
chancellor.erin@epa.gov

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/30/2018 9:56:50 PM
To: Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]; Palich, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=330ad62e158d43af93fcbbece930d21a-Palich, Chr]; Frye, Tony (Robert) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=58c08abdfc1b4129a10456b78e6fc2e1-Frye, Rober]; Levine, Carolyn [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=468b48e304cf4c54a52bb7c83a54fd21-CLevin02]; Morgan, Ashley [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4acef44653d440e3baab09958ffc24ea-Morgan, Ash]
CC: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]
Subject: OLEM's INPUT --Administrator Cheat Sheets
Attachments: OLEM-1 CCR rule.AdminTPsfinal.docx; OLEM-4 Chem Facility RMP.Admin.TPsfinal.docx

Importance: High

Attached are OLEM's one-page talking points for the Acting Administrator on CCR and RMP.

Please let us know if you have any questions or need anything else.

Thanks.
Jackie

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Lyons, Troy
Sent: Monday, July 30, 2018 2:14 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Chancellor, Erin <chancellor.erin@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>
Subject: INPUT NEEDED--Administrator Cheat Sheet
Importance: High

Team—the Administrator would like a single paged cheat sheet on the top issues most likely to be asked. To accommodate this request, please provide 1-2 talking points that the Administrator could read verbatim, if needed. **This needs to be completed by COB today so he can review this evening.** Let me know if I have missed any topics.

Please let me know if you have any questions.

OAR

- CAFE
- California Waiver--OAR
- Cross Border
- Kigali Amendment/Hydrofluorocarbons
- Small Refinery Exemptions
- New Source Review
- Once In, Always In

OCSPP

- TSCA Implementation
- Methylene Chloride
- Formaldehyde

OLEM

- CCR
- Risk Management Plan

ORD

- Secret Science
- Science Advisory Boards—Conflicts of Interest

OW

- PFAS
- Lead

Troy M. Lyons
Associate Administrator
Office of Congressional & Intergovernmental Relations
U.S. Environmental Protection Agency
Cell phone/Ex. 6 cell)

Message

From: Cogliano, Gerain [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4BA589A367194EFD92030BFBE891A298-COGLIANO, GERAIN]
Sent: 8/23/2018 7:32:02 PM
To: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Simon, Nigel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2f1084d32324dcd965683a9d2f09764-Simon, Nigel]
CC: Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Hostage, Barbara [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=13c503d29e7a4eceb13c449d182eca25-BHostage]
Subject: RE: Need response today! OK with Reg Plan revisions? New entry for Reg Agenda

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 Betsy can speak more to this at the 11:30 meeting tomorrow, if you like.

From: Cook, Steven
Sent: Thursday, August 23, 2018 2:12 PM
To: Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Simon, Nigel <Simon.Nigel@epa.gov>
Cc: Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>
Subject: RE: Need response today! OK with Reg Plan revisions? New entry for Reg Agenda

Deliberative Process / Ex. 5

From: Cogliano, Gerain
Sent: Thursday, August 23, 2018 2:10 PM
To: Cook, Steven <cook.steven@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Simon, Nigel <Simon.Nigel@epa.gov>
Cc: Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>
Subject: RE: Need response today! OK with Reg Plan revisions? New entry for Reg Agenda

No. **Deliberative Process / Ex. 5**
OMB is not expecting us to address it now.

From: Cook, Steven
Sent: Thursday, August 23, 2018 12:38 PM
To: Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Simon, Nigel <Simon.Nigel@epa.gov>
Cc: Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>
Subject: RE: Need response today! OK with Reg Plan revisions? New entry for Reg Agenda

Do we need to specifically mention the two court decisions that came out this week on RMP and CCR?

From: Cogliano, Gerain
Sent: Thursday, August 23, 2018 11:04 AM
To: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Simon, Nigel <Simon.Nigel@epa.gov>
Cc: Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>
Subject: Need response today! OK with Reg Plan revisions? New entry for Reg Agenda

Hi all,
OP is asking by COB our responses to OMB's edits to the Reg Plan and Agenda. Attached are our responses to the Reg Plan and an addition to the Reg Agenda **Deliberative Process / Ex. 5** Please let me know if these are okay to send forward. If not, let me know what needs to change.

Thanks.

Gerain Cogliano
OLEM's Regulatory Steering Committee Representative

Policy and Regulatory Management Team Leader
Policy Analysis and Regulatory Management Staff (PARMS)
Office of Program Management (OPM)
Office of Land and Emergency Management (OLEM)

WJC West Room 4130
Phone Number: 202-566-1929
Fax Number: 202-566-1934
Mail Code: 5103T
cogliano.gerain@epa.gov

For ADP information:
http://intranet.epa.gov/adpi/library
http://intranet.epa.gov/olem/policy/index.htm

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/30/2018 9:47:43 PM
To: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
CC: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: RE: ASAP For Steven's Review--Due COB Today: Administrator Cheat Sheets

Got it. Thanks Steven.

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Cook, Steven
Sent: Monday, July 30, 2018 5:39 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Wright, Peter <wright.peter@epa.gov>
Subject: RE: ASAP For Steven's Review--Due COB Today: Administrator Cheat Sheets

Ok except for one minor edit on third RMP bullet. I think "on" is needed before "regulated" near the end of the sentence.

From: Harwood, Jackie
Sent: Monday, July 30, 2018 5:04 PM
To: Cook, Steven <cook.steven@epa.gov>
Cc: Wright, Peter <wright.peter@epa.gov>
Subject: ASAP For Steven's Review--Due COB Today: Administrator Cheat Sheets
Importance: High

Hi Steven,

Attached a draft talking points on CCR and RMP. Peter has reviewed them and provided input.

Please let me know if you have any changes/edits. Thanks.

Jackie

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Harwood, Jackie
Sent: Monday, July 30, 2018 3:04 PM
To: Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>

Cc: Breen, Barry <Breen.Barry@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>
Subject: RE: For Peter/Steven Review--Due COB Today: Administrator Cheat Sheets

Sorry I just realized these need to be 1-2 talking points per topic. I'll redo and send you revised versions to review.

Thanks.
Jackie

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Harwood, Jackie
Sent: Monday, July 30, 2018 2:57 PM
To: Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>
Subject: For Peter/Steven Review--Due COB Today: Administrator Cheat Sheets
Importance: High

Hi Peter and Steven,

In response to Troy's request below, attached are two single-paged cheat sheets on CCR and RMP that I prepared based on the latest talking points Peter put together – **for your review.**

Let me know if you have any comments or edits. Once I hear back from you, I'll send these on to Troy et. al. before COB today.

Thanks.
Jackie

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Hilosky, Nick
Sent: Monday, July 30, 2018 2:17 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Manges, Ellen <Manges.Ellen@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>
Subject: FW: INPUT NEEDED--Administrator Cheat Sheet
Importance: High

URGENT!

From: Lyons, Troy
Sent: Monday, July 30, 2018 2:14 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Chancellor, Erin

<chancellor.erin@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>
Subject: INPUT NEEDED--Administrator Cheat Sheet
Importance: High

Team—the Administrator would like a single paged cheat sheet on the top issues most likely to be asked. To accommodate this request, please provide 1-2 talking points that the Administrator could read verbatim, if needed. **This needs to be completed by COB today so he can review this evening.** Let me know if I have missed any topics.

Please let me know if you have any questions.

OAR

- CAFE
- California Waiver--OAR
- Cross Border
- Kigali Amendment/Hydrofluorocarbons
- Small Refinery Exemptions
- New Source Review
- Once In, Always In

OCSPP

- TSCA Implementation
- Methylene Chloride
- Formaldehyde

OLEM

- CCR
- Risk Management Plan

ORD

- Secret Science
- Science Advisory Boards—Conflicts of Interest

OW

- PFAS
- Lead

Troy M. Lyons
Associate Administrator
Office of Congressional & Intergovernmental Relations
U.S. Environmental Protection Agency
Cell number/Ex. 6 cell)

Message

From: Tabuchi, Hiroko [hiroko.tabuchi@nytimes.com]
Sent: 7/27/2018 10:08:36 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Konkus, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=555471b2baa6419e8e141696f4577062-Konkus, Joh]; Grantham, Nancy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=12a3c2ed7158417fb0bb1b1b72a8cfb0-Grantham, Nancy]
Subject: Re: New York Times follow-up query re: Peter Wright

Yes, I've been in touch with John and Nancy -- many thanks. Hiroko

On Fri, Jul 27, 2018 at 6:07 PM, Wright, Peter <wright.peter@epa.gov> wrote:

Ms Tabuchi

I would like to refer you to my colleagues John and Nancy who I know you have been working with on your story.

Regards,

Peter Wright

Sent from my iPhone

On Jul 27, 2018, at 6:01 PM, Tabuchi, Hiroko <hiroko.tabuchi@nytimes.com> wrote:

> Mr. Wright, I wasn't sure whether this email address was already working -- but I wanted to make sure you were aware of our questions to EPA regarding your appointment to the assistant administrator job. Let us know if you had any comments or are able to speak with us. Thanks, Hiroko
>
> Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 | hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi
>
> ---------- Forwarded message ----------
> From: **Tabuchi, Hiroko** <hiroko.tabuchi@nytimes.com>
> Date: Wed, Jul 25, 2018 at 1:51 PM
> Subject: New York Times follow-up query re: Peter Wright
> To: "Hewitt, James" <hewitt.james@epa.gov>
> Cc: Tryggvi Adalbjornsson <tryggvi.adalbjornsson@nytimes.com>
>
> Dear James,
>
> Thanks again for getting me on the phone with Kevin Minoli regarding Peter Wright's nomination to become E.P.A. assistant administrator. Here are a series of facts and factual assertions and questions based on further reporting on Mr. Wright.

Our overall assertion is that Mr. Wright helped lead a team at Dow accused by regulators and Dow's own staff of submitting disputed data on dioxin contamination, misrepresenting scientific evidence, and delaying the cleanup at one of the country's most toxic sites.

We welcome responses to these questions individually and any clarifications or disagreements with factual assertions as well. Finally, we welcome any on the record statement you want to make. We ask for responses by EOB tomorrow (Thursday).

Hiroko and Tryggvi

212-556-2642 (Hiroko direct line)
917-615-4180 (Hiroko cell)

FACTUAL ASSERTIONS:

++Mr. Wright was born in LA and spent 19 years at Dow. Before Dow, he was employed by Monsanto. In 2003, he was named to the Michigan Dioxin Initiative, a five-person executive team at Dow tasked with designing and negotiating the details of a cleanup of dioxin and other contamination in the Tittawbassee and Saginaw watersheds. That river network flows some 50 miles into Lake Huron. Mr. Wright was the only lawyer on the team, and led its legal strategy.

++Mr. Wright has pointed to his work on the Michigan site as his biggest accomplishment. In a 2017 email to the E.P.A.'s chief of staff Ryan Jackson, Mr. Wright called it "the most controversial matter and single most publicly successful matter that I have worked on at Dow."

++DowDuPont has at least partial responsibility at 171 locations nationwide, or almost 14 percent of all sites on the E.P.A.'s list of priority Superfund cleanups, according to E.P.A. data. QUESTION: According to our analysis of the data, DowDuPont is linked to more NPL Superfund sites than any other company. Is this in line with E.P.A.'s analysis?

++In 2004 and 2005, state and federal officials twice discovered Dow contractors collecting soil samples along the Tittabawassee without telling regulators, which violated a Dow operating license. The unauthorized sampling not only prevented regulators from verifying Dow's results, state officials warned, but could enable Dow to identify hotspots in order to downplay them when designing cleanup plans. Mr. Wright was one of three Dow representatives on a May 2005 phone call with the E.P.A. and the M.D.E.Q. instructing the company to abide by the rules. Later, Michigan fined Dow $70,000 for the unauthorized sampling.

++Dow newsletters in 2004 to local residents stated that few health effects were tied to dioxin exposure, an assertion the E.P.A. has taken issue with. A study released by Dow also found that wild game — deer, turkey, squirrel — had elevated dioxin levels but was safe to

eat. Michigan's health department disagreed and warned people not to eat the meat.

++Mr. Wright separately authored an article in 2005 on dioxin risk in the American Bar Association's Natural Resources and Environment, describing dioxin as "highly toxic to a variety of animal species but not to humans." This goes against the opinion of several dioxin experts we spoke to.

++Mr. Wright also participated in discussions with researchers and regulators about a Dow-funded study at the University of Michigan that had found that living on dioxin-contaminated soil was not associated with higher dioxin levels in the body. (E.P.A. officials at the time believed the study "was initiated at the request of Dow in order to downplay the risks of exposure.")

++Mr. Wright's team was criticized by E.P.A. in the mid-2000s for stalling on the cleanup. ("E.P.A. is concerned with Dow's lack of progress in addressing the significantly elevated levels of dioxin and furan contamination in the Saginaw Bay watershed," a June 2007 E.P.A. memo states.)

++In 2006, an independent lab testing company hired to validate Dow's data on contamination rejected Dow's numbers. The company, Project Enhancement Corporation, terminated its contract with Dow, citing the chemical company's "major technical noncompliance," and a "breakdown" in Dow's testing procedures, according to the termination letter it sent to Dow.

++Priscilla Denney, a senior environmental engineer on Mr. Wright's team, warned Dow about PEC's concerns. (Dow had changed the way it submitted its data while she was on maternity leave, making it impossible for a third party to validate Dow's results, particularly those that showed no levels of contamination.) She later claimed in a whistleblower suit that her concerns about Dow's data were ignored and that she had been demoted in retaliation. Mr. Wright, who was deposed as part of the case, said he helped investigate Ms. Denney's concerns. In the deposition, he also calls himself Dow's "dioxin lawyer."

++Dow submitted the data to the Michigan environmental regulator and to the E.P.A. in February 2007 without mentioning PEC's concerns

++In May 2008, then E.P.A. Region 5 administrator Mary Gade was forced to resign, after Dow appealed to officials in Washington, according to emails that have since been made public. Ms. Gade told the Chicago Tribune at the time that "there was no question" she had been pushed out because of pressure from Dow.

QUESTIONS:

++Does E.P.A. believe that any of the above in any way affect the suitability of Mr. Wright's appointment to the OLEM role, or his

ability to carry out his tasks on the job?

++Some environmental groups have criticized Mr. Wright's appointment, saying Dow's exposure to Superfund sites presents a major conflict of interest. Is this a fair assertion?

++When does E.P.A. expect the Michigan dioxin cleanup to be complete?

++What role did Dow play in the appointment of Mr. Wright to the E.P.A. assistant administrator role?

++Any other on-the-record statement regarding the above?

Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 | hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi

Message

From: Cheatham, Reggie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C04C7B4FBF4D45108592282991C719CB-RCHEATHA]
Sent: 8/22/2018 12:50:47 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Simon, Nigel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2f1084d32324dcd965683a9d2f09764-Simon, Nigel]
CC: Hostage, Barbara [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=13c503d29e7a4eceb13c449d182eca25-BHostage]; Jennings, Kim [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7eeab2bece9b461e949b23d538b7964a-kjenning]; Cogliano, Gerain [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4ba589a367194efd92030bfbe891a298-Cogliano, Gerain]; Gioffre, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31f5c89e985847ecaeec14283e8fc914-PFLEMI02]; Clark, Becki [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a906e07f1cd143b9a3c2ddab813b8140-Clark, Becki]; Indermark, Michele [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cf63a0730b3e4d89aa3b8ce9a5d9eab2-Indermark,]
Subject: RMP Rule Vacatur Options Paper and Compliance Dates
Attachments: Delay rule vacatur OPTIONS 8-21-18 V3.docx; attachement - Minor Provisions of RMP Amendments Final Rule 8-21-18.docx

Per our discussion yesterday, the team in RID pulled together an options paper to walk through how things potentially could unfold. We are still awaiting the results from discussions between DOJ and Industry and will update you when more information becomes available. Thoughts, comments and questions appreciated.

Thanks

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202.564.8003 (O); Cell number/Ex. 6 (M);
cheatham.reggie@epa.gov
Doris Williams, Executive Assistant
202.564.0053

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/18/2018 1:26:44 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Johnson, Barnes [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c39e9338cbf04dc3b4b29f78e5213303-Johnson, Barnes]; Salyer, Kathleen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d78fb62f65cd4cd8be1c87c7e4c4ccde-KSALYER]; Devlin, Betsy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b76a4bf5afc84459a6bf2a6a4645f40f-BDEVLIN]; Elliott, Ross [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33cb08013cc94c21a3e3236dbad4c4a4-REELLIOT]; Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Colip, Matthew [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cb142ab3fb174f0ea41a87668c7fb641-Mcolip]; Taylor, Trish [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2bf5f5220f7144d380741509abaeecd7-Ptaylo03]
Subject: FYI: Washington Post article on CCR Rule

FYI

From: Horne, Amanda
Sent: Wednesday, July 18, 2018 9:23 AM
To: AO OPA Individual News Clips <AO_OPA_Ind_News_Clips@epa.gov>
Subject: The Washington Post - EPA eases rules on how coal ash waste is stored across U.S.

The Washington Post
EPA eases rules on how coal ash waste is stored across U.S.
https://www.washingtonpost.com/national/health-science/epa-eases-rules-on-how-coal-ash-waste-is-stored-across-the-us/2018/07/17/740e4b9a-89d3-11e8-85ae-511bc1146b0b_story.html?utm_term=.f5fb9179feaa
Posted: July 17th, 2018 @ 7:15pm By: Juliet Eilperin and Brady Dennis

The Environmental Protection Agency finalized a rule Tuesday to overhaul requirements for handling the toxic waste produced by burning coal, providing more flexibility to state and industry officials who had sought a rollback of restrictions put in place in 2015.

The far-reaching rule will dictate how coal ash, which has contaminated waterways in two high-profile spills in Tennessee and North Carolina in the past decade, is stored at more than 400 coal-fired power plants around the country.

The new standards — the first major rule signed by EPA acting administrator Andrew Wheeler — will extend the life of some existing ash ponds from April 2019 until October 2020, empower states to suspend groundwater monitoring in certain cases and allow state officials to certify whether utilities' facilities meet adequate standards. EPA officials estimate that the rule change will save the industry between $28 million and $31 million a year in compliance costs.

"These amendments provide states and utilities much-needed flexibility in the management of coal ash, while ensuring human health and the environment are protected," Wheeler said in a statement. "Our actions mark a significant departure from the one-size-fits-all policies of the past and save tens of millions of dollars in regulatory costs."

Industry officials petitioned the Trump administration last year to reconsider existing standards for the fine powder and sludge — which contains mercury, cadmium, arsenic and other heavy metals — and the new regulation expands on the proposal then-EPA Administrator Scott Pruitt issued in March.

Wheeler worked for several years as a lobbyist for Murray Energy, which supported reconsideration of the coal ash rule, before joining the administration this spring. He said in an interview with The Washington Post this month that he has not lobbied EPA directly for several years, though he lobbied other government departments since President Trump took office.

The Obama administration negotiated for years with environmental groups, electric utilities and other affected industries about how to address coal waste, which can poison wildlife and lead to respiratory illnesses among those living near storage sites. The 2015 rule increased inspections and monitoring of coal ash disposal sites and required measures such as liners in new waste pits to prevent leaks that might threaten nearby drinking water supplies.

Tuesday's rule — which will be followed by a second one, most likely next year, to address how to recycle coal ash to make concrete, gypsum wallboard and pavement — incorporated several requests from industry. For example, it would allow a state to suspend groundwater monitoring if it determines that there are no leaks, contamination or migration of contaminants that can be detected.

And while the initial proposal required a professional engineer to issue a certification of compliance for coal ash storage sites, the new rule will allow state authorities to sign off on it instead.

The rule will allow coal ash impoundments that are at risk for leaks — including ones within five feet of groundwater or in wetlands or seismic zones — to continue operating beyond April 2019, when they were slated to close. Instead, they may remain open under the new rule until October 2020.

In addition, the new rule would allow states to establish their own "risk-based" standards for substances for which there are no federally mandated "maximum contaminant level," or MCL. That could affect the regulation of contaminants such as colbalt, lithium and lead, all of which have been linked to potentially serious health problems in humans.

Jim Matheson, who heads the National Rural Electric Cooperative Association, praised the deadline extension, saying in a statement that "EPA is working to avoid unintended consequences while the agency updates the original rule" to reflect new authority Congress gave the agency a year and a half ago.

Earthjustice senior counsel Lisa Evans criticized the agency for making concessions to the power sector. "Wheeler is on course to give industry exactly what it asks for, regardless of the damage it wreaks on our drinking water and health," she wrote in an email.

Avner Vengosh, a Duke University expert on the environmental impacts of coal ash, said that scaling back monitoring requirements, in particular, could leave communities vulnerable to potential pollution.

"We have very clear evidence that coal ash ponds are leaking into groundwater sources," Vengosh said. "The question is, has it reached areas where people use it for drinking water? We just don't know. That's the problem."

And officials are unlikely to know, he said, unless basic monitoring requirements — which were part of a compromise in 2015 after the EPA decided not to define coal ash as hazardous waste — remain in place.

The EPA aims next year to finalize a separate rule addressing toxic wastewater discharge from power plants, and a senior agency official said that it made sense to align the two deadlines so that utilities could determine how best to comply with both revised standards.

The administration did opt to preserve the 2015 rule's requirement that utilities publicly post the groundwater monitoring data they collect from coal ash disposal sites. This year, more than a dozen power plants across eight states publicly released data showing widespread groundwater contamination from such sites.

Environmental groups seized on the data, pointing to increases in potentially toxic substances such as arsenic detected in the groundwater near coal ash storage pits.

Industry representatives, however, noted that despite evidence of leakage from some existing coal ash storage facilities, whether such leaks have harmed drinking water supplies remains unclear.

EPA officials said they received roughly 160,000 comments on the proposed rule but declined to say how many people favored or opposed it.

During public hearings, agency officials received an earful from environmentalists and residents of communities affected by coal ash. In April, inside the ballroom of a Doubletree Hotel in Arlington, Va., those who testified at a public hearing on the coal ash proposal overwhelmingly opposed a rollback of the Obama-era standards.

"We will oppose this rollback every step of the way, including in the courts," Mary Anne Hitt, the head of the Sierra Club's Beyond Coal campaign, said that day. "Weakening these standards is a betrayal of these families across the country who are counting on you."

Using its authority under the 2016 Water Infrastructure Improvements Act, the EPA has begun delegating significant authority for overseeing coal ash disposal to the states. Oklahoma received federal approval for its own program, Georgia has completed its application and nine other states are in the process of applying.

OLEM Weekly Report, July 26, 2018

Hot Topics

1. **Coal Combustion Residuals (CCR).**

2. **Clean Air Act 112(r) Risk Management Program (RMP) Reconsideration NPRM.** The Notice of Data Availability (NODA) was published in the FR on July 24. The public comment period for the NPRM (extended 30 days from the date of FR publication of the NODA) is now August 23.

3. **Ongoing major Superfund NPL sites (such as East Chicago, West Lake, Bonita Peak, Hudson River, Portland Harbor, Oak Ridge, Edwards AFB).**

4. **CERCLA 108(b) Financial Assurance (next three sectors).**

5. **PFAS.**
   a. Ex. 5 Deliberative Process (DP)
   b. Deliberative Process / Ex. 5

6. **e-Manifest.**

Upcoming Major Decisions and Events

1. Deliberative Process / Ex. 5

2. **Brownfields Meeting.** Regional Brownfields Coordinators will meet in Potomac Yards on July 31 – August 1.

3. **CERCLA Vacatur and FARM Act Final Rule relating to Air Releases of Hazardous Substances from Animal Waste at Farms.** Ex. 5 Deliberative Process (DP)
   Ex. 5 Deliberative Process (DP)

4. **Coal Combustion Residuals.**
   a. Ex. 5 Deliberative Process (DP)
   b. Deliberative Process / Ex. 5

5. Deliberative Process / Ex. 5

6. **Hazardous Substances Spill Prevention Proposed Rule.** This rule package was published in the FR and comments are due by August 24, 2018.

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/10/2018 8:20:40 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Thornton, Kecia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f2b76071659d45f09279e4d798c062f1-KThornto]
Subject: NY Times Request on Dow/Dupont Sites
Attachments: Dow Dupont Revised 6_18_2018 - Final (004).xlsx

Importance: High

Hi Barry and Peter,

The New York Times contacted OPA today to request a copy of the spreadsheet OECA prepared for Peter's confirmation hearing listing PRPs at Dow and Dupont Superfund sites. Susan Bodine approved the attached list and it has been sent to OPA today. OPA will provide it to the Times reporter.

I'll let you know as soon as I hear more on this. Please let me know if you have any questions.

Thanks.
Jackie

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

Data as of 6/18/2018

Total Proposed & Final NPL Sites (Non Fed Facility)	1238	
Proposed	49	
Final	1189	
		% of Total Proposed, Final NPL Sites (1238)
		14%
Dow/DuPont Proposed & Final NPL Sites	171	
Dow/DuPont Non-NPL, Deleted	129	

*** 43 sites Deleted from the NPL**

Region	Site Name	EPA ID	NPL	Listing Year	Party Name/Affiliate	State
01	BEACON HEIGHTS LANDFILL	CTD072122062	F	1983	Dow/DuPont	CT
01	BURGESS BROTHERS LANDFILL	VTD003965415	F	1989	DOW	VT
01	DAVIS LIQUID WASTE	RID980523070	F	1983	DOW	RI
01	GALLUP'S QUARRY	CTD108960972	F	1989	DOW	CT
01	KEEFE ENVIRONMENTAL SERVICES (KES)	NHD092059112	F	1983	DuPont	NH
01	OLD SOUTHINGTON LANDFILL	CTD980670806	F	1984	DuPont	CT
01	OTTATI & GOSS/KINGSTON STEEL DRUM	NHD990717647	F	1983	Dow/DuPont	NH
01	PETERSON/PURITAN, INC.	RID055176283	F	1983	DOW	RI
01	PICILLO FARM	RID980579056	F	1983	Dow/DuPont	RI
01	RE-SOLVE, INC.	MAD980520621	F	1983	Dow/DuPont	MA
01	SILRESIM CHEMICAL CORP.	MAD000192393	F	1983	Dow/DuPont	MA
01	SOLVENTS RECOVERY SERVICE OF NEW ENGLAND	CTD009717604	F	1983	DuPont	CT
01	SUTTON BROOK DISPOSAL AREA	MAD980520696	F	2001	DuPont	MA
02	ATLANTIC RESOURCES	NJD981558430	F	2002	DOW	NJ
02	BRIDGEPORT RENTAL & OIL SERVICES	NJD053292652	F	1983	Dow/DuPont	NJ
02	BYRON BARREL & DRUM	NYD980780670	F	1986	Dow/DuPont	NY
02	CALDWELL TRUCKING CO.	NJD048798953	F	1983	DuPont	NJ
02	CHEMICAL CONTROL	NJD000607481	F	1983	Dow/DuPont	NJ
02	CHEMSOL, INC.	NJD980528889	F	1983	Dow/DuPont	NJ
02	COMBE FILL SOUTH LANDFILL	NJD094966611	F	1983	DOW	NJ
02	CORTESE LANDFILL	NYD980528475	F	1986	DuPont	NY
02	D'IMPERIO PROPERTY	NJD980529416	F	1983	DOW	NJ
02	DIAMOND ALKALI CO.	NJD980528996	F	1984	DuPont	NJ
02	EWAN PROPERTY	NJD980761365	F	1984	DOW	NJ
02	FULTON TERMINALS	NYD980593099	F	1983	DuPont	NY
02	GEMS LANDFILL	NJD980529192	F	1983	Dow/DuPont	NJ
02	GLOBAL SANITARY LANDFILL	NJD063160667	F	1989	DuPont	NJ
02	HERCULES, INC. (GIBBSTOWN PLANT)	NJD002349058	F	1983	DuPont	NJ
02	HORSESHOE ROAD	NJD980663678	F	1995	DOW	NJ
02	KIN-BUC LANDFILL	NJD049860836	F	1983	Dow/DuPont	NJ
02	KING OF PRUSSIA	NJD980505341	F	1983	DuPont	NJ
02	LANG PROPERTY	NJD980505382	F	1983	DuPont	NJ
02	LCP CHEMICALS INC.	NJD079303020	F	1998	DOW	NJ
02	LIGHTMAN DRUM COMPANY	NJD014743678	F	1999	DOW	NJ
02	LIPARI LANDFILL	NJD980505416	F	1983	Dow/DuPont	NJ
02	LONE PINE LANDFILL	NJD980505424	F	1983	Dow/DuPont	NJ
02	MARTIN AARON, INC.	NJD014623854	F	1999	Dow/DuPont	NJ
02	MERCURY REFINING, INC.	NYD048148175	F	1983	Dow/DuPont	NY
02	NASCOLITE CORP.	NJD002362705	F	1984	DuPont	NJ
02	PJP LANDFILL	NJD980505648	F	1983	Dow/DuPont	NJ
02	POLLUTION ABATEMENT SERVICES	NYD000511659	F	1983	Dow/DuPont	NY
02	PRICE LANDFILL	NJD070281175	F	1983	Dow/DuPont	NJ
02	REICH FARMS	NJD980529713	F	1983	DOW	NJ
02	SARNEY FARM	NYD980535165	F	1986	DOW	NY
02	SCIENTIFIC CHEMICAL PROCESSING	NJD070565403	F	1983	Dow/DuPont	NJ
02	SWOPE OIL & CHEMICAL CO.	NJD041743220	F	1983	Dow/DuPont	NJ
02	TRI-CITIES BARREL CO., INC.	NYD980509285	F	1989	DuPont	NY
02	VENTRON/VELSICOL	NJD980529879	F	1984	Dow/DuPont	NJ
02	VOLNEY MUNICIPAL LANDFILL	NYD980509376	F	1986	DuPont	NY
02	WOODLAND ROUTE 532 DUMP	NJD980505887	F	1984	DOW	NJ
02	WOODLAND ROUTE 72 DUMP	NJD980505879	F	1984	DOW	NJ
03	ARMY CREEK LANDFILL	DED980494496	F	1983	DuPont	DE
03	BELL LANDFILL	PAD980705107	F	1989	DuPont	PA
03	BRESLUBE-PENN, INC.	PAD089667695	F	1996	DuPont	PA
03	CENTRAL CHEMICAL (HAGERSTOWN)	MDD003061447	F	1997	Dow/DuPont	MD
03	CROYDON TCE	PAD981035009	F	1986	DOW	PA
03	DELAWARE SAND & GRAVEL LANDFILL	DED000605972	F	1983	DuPont	DE
03	DOUGLASSVILLE DISPOSAL	PAD002384865	F	1983	Dow/DuPont	PA
03	E.I. DU PONT DE NEMOURS & CO., INC. (NEWPORT PIGMENT PLANT LANDFILL)	DED980555122	F	1990	DuPont	DE
03	FIKE CHEMICAL, INC.	WVD047989207	F	1983	Dow/DuPont	WV
03	GREENWOOD CHEMICAL CO.	VAD003125374	F	1987	DOW	VA
03	HARVEY & KNOTT DRUM, INC.	DED980713093	F	1983	DuPont	DE
03	JACKS CREEK/SITKIN SMELTING & REFINING, INC.	PAD980829493	F	1989	Dow/DuPont	PA
03	KOPPERS CO., INC. (NEWPORT PLANT)	DED980552244	F	1990	DuPont	DE
03	LOWER DARBY CREEK AREA	PASFN0305521	F	2001	Dow/DuPont	PA
03	METRO CONTAINER CORPORATION	PAD044545895	F	2012	Dow/DuPont	PA
03	OLD WILMINGTON ROAD GW CONTAMINATION	PAD981938939	F	2000	DuPont	PA
03	ORDNANCE WORKS DISPOSAL AREAS	WVD000850404	F	1986	DuPont	WV
03	SAND, GRAVEL AND STONE	MDD980705164	F	1983	Dow/DuPont	MD
03	SPECTRON, INC.	MDD000218008	F	1994	Dow/DuPont	MD
03	STRASBURG LANDFILL	PAD000441337	F	1989	DuPont	PA
03	TONOLLI CORP.	PAD073613663	F	1989	DuPont	PA
03	TYBOUTS CORNER LANDFILL	DED000606079	F	1983	DuPont	DE
03	WHITMOYER LABORATORIES	PAD003005014	F	1986	DOW	PA
03	WILLIAM DICK LAGOONS	PAD980537773	F	1987	DOW	PA
04	ABERDEEN PESTICIDE DUMPS	NCD980843346	F	1989	Dow/DuPont	NC
04	ALTERNATE ENERGY RESOURCES INC	GAD033582461	F	2006	DuPont	GA
04	AQUA-TECH ENVIRONMENTAL INC (GROCE LABS)	SCD058754789	F	1994	Dow/DuPont	SC
04	BYPASS 601 GROUND WATER CONTAMINATION	NCD044440303	F	1986	DuPont	NC
04	CAROLAWN, INC.	SCD980558316	F	1983	DOW	SC
04	CHARLES MACON LAGOON AND DRUM STORAGE	NCD980840409	F	1987	DuPont	NC
04	CITY INDUSTRIES, INC.	FLD055945653	F	1989	DOW	FL
04	DISTLER BRICKYARD	KYD980602155	F	1983	Dow/DuPont	KY
04	DISTLER FARM	KYD980601975	F	1983	DOW	KY
04	INTERSTATE LEAD CO. (ILCO)	ALD041906173	F	1986	DOW	AL
04	JADCO-HUGHES FACILITY	NCD980729602	F	1986	Dow/DuPont	NC
04	LEONARD CHEMICAL CO., INC.	SCD991279324	F	1984	DOW	SC
04	MAXEY FLATS NUCLEAR DISPOSAL	KYD980729107	F	1986	Dow/DuPont	KY
04	MEDLEY FARM DRUM DUMP	SCD980558142	F	1989	DOW	SC
04	PEAK OIL CO./BAY DRUM CO.	FLD004091807	F	1986	DOW	FL
04	RED PANTHER CHEMICAL COMPANY	MSD000272385	F	2011	Dow/DuPont	MS
04	SCRDI BLUFF ROAD	SCD000622787	F	1983	DOW	SC
04	SMITH'S FARM	KYD097267413	F	1986	Dow/DuPont	KY
04	SYDNEY MINE SLUDGE PONDS	FLD000648055	F	1989	DOW	FL
04	TRI-CITY DISPOSAL CO.	KYD981028350	F	1989	DOW	KY
04	WARD TRANSFORMER	NCD003202603	F	2003	DOW	NC
04	ZELLWOOD GROUND WATER CONTAMINATION	FLD049985302	F	1983	DuPont	FL
05	ACME SOLVENT RECLAIMING, INC. (MORRISTOWN PLANT)	ILD053219259	F	1983	DuPont	IL
05	AMERICAN CHEMICAL SERVICE, INC.	IND016360265	F	1984	Dow/DuPont	IN
05	ARROWHEAD REFINERY CO.	MND980823975	F	1984	DOW	MN
05	AUTO ION CHEMICALS, INC.	MID980794382	F	1983	DuPont	MI
05	BOFORS NOBEL, INC.	MID006030373	F	1989	Dow/DuPont	MI
05	BYRON SALVAGE YARD	ILD010236230	F	1983	DuPont	IL
05	CHEM-DYNE	OHD074727793	F	1983	Dow/DuPont	OH
05	CROSS BROTHERS PAIL RECYCLING (PEMBROKE)	ILD980792303	F	1983	DuPont	IL
05	E.H. SCHILLING LANDFILL	OHD980509947	F	1983	DOW	OH
05	ENVIROCHEM CORP.	IND084259951	F	1983	DOW	IN
05	FIELDS BROOK	OHD980614572	F	1983	DOW	OH
05	FOREST WASTE PRODUCTS	MID980410740	F	1983	DOW	MI
05	FULTZ LANDFILL	OHD980794630	F	1983	DOW	OH
05	G&H LANDFILL	MID980410823	F	1983	DOW	MI
05	GARY DEVELOPMENT LANDFILL	IND077005916	F	2011	Dow/DuPont	IN
05	H.O.D. LANDFILL	ILD980605836	F	1990	DOW	IL
05	IONIA CITY LANDFILL	MID980794416	F	1983	DOW	MI
05	JANESVILLE ASH BEDS	WID000712950	F	1984	DuPont	WI
05	LAKE CALUMET CLUSTER	ILD000716852	F	2010	Dow/DuPont	IL
05	LAMMERS BARREL FACTORY	OHD981537582	F	2003	DuPont	OH
05	LENZ OIL SERVICE, INC.	ILD005451711	F	1989	DuPont	IL
05	LIQUID DISPOSAL, INC.	MID067340711	F	1983	Dow/DuPont	MI
05	METAMORA LANDFILL	MID980506562	F	1984	Dow/DuPont	MI
05	NEW LYME LANDFILL	OHD980794614	F	1983	DOW	OH
05	NINTH AVENUE DUMP	IND980794432	F	1983	Dow/DuPont	IN
05	NORTHSIDE SANITARY LANDFILL, INC	IND050530872	F	1984	DOW	IN
05	ORGANIC CHEMICALS, INC.	MID990858003	F	1983	Dow/DuPont	MI
05	PETERS CARTRIDGE FACTORY	OHD987051083	F	2012	DuPont	OH
05	PRISTINE, INC.	OHD076773712	F	1983	DOW	OH
05	SEYMOUR RECYCLING CORP.	IND040313017	F	1983	DOW	IN
05	SKINNER LANDFILL	OHD063963714	F	1983	Dow/DuPont	OH
05	SUMMIT NATIONAL	OHD980609994	F	1983	Dow/DuPont	OH
05	THERMO-CHEM, INC.	MID044567162	F	1986	DuPont	MI
05	U.S. SMELTER AND LEAD REFINERY, INC.	IND047030226	F	2009	DuPont	IN
05	VERONA WELL FIELD	MID980793806	F	1983	DuPont	MI
05	SAUGET AREA 2	ILD000605790	P	2001	DOW	IL
06	CEDAR CHEMICAL CORPORATION	ARD990660649	F	2012	DuPont	AR
06	COMBUSTION, INC.	LAD072606627	F	1990	DOW	LA
06	FRENCH, LTD.	TXD980514814	F	1983	Dow/DuPont	TX
06	GULFCO MARINE MAINTENANCE	TXD055144539	F	2003	DOW	TX
06	HARDAGE/CRINER	OKD000400093	F	1983	Dow/DuPont	OK
06	MALONE SERVICE CO - SWAN LAKE PLANT	TXD980864789	F	2001	Dow/DuPont	TX
06	MANY DIVERSIFIED INTERESTS, INC.	TXD008083404	F	1999	DOW	TX
06	MOTCO, INC.	TXD980629851	F	1983	Dow/DuPont	TX
06	PATRICK BAYOU	TX0000605329	F	2002	DOW	TX
06	PETRO-CHEMICAL SYSTEMS, INC. (TURTLE BAYOU)	TXD980873350	F	1986	DOW	TX
06	PETRO-PROCESSORS OF LOUISIANA, INC.	LAD057482713	F	1984	Dow/DuPont	LA
06	SHERIDAN DISPOSAL SERVICES	TXD062132147	F	1989	Dow/DuPont	TX
06	SIKES DISPOSAL PITS	TXD980513956	F	1983	DOW	TX
06	TEX-TIN CORP.	TXD062113329	F	1998	Dow/DuPont	TX
06	US OIL RECOVERY	TXN000607093	F	2012	DOW	TX
06	VERTAC, INC.	ARD000023440	F	1983	DOW	AR
06	DEVIL'S SWAMP LAKE	LAD981155872	P	2004	DOW	LA
07	CHEROKEE COUNTY	KSD980741862	F	1983	DuPont	KS
07	LAWRENCE TODTZ FARM	IAD000606038	F	1986	DuPont	IA
07	MISSOURI ELECTRIC WORKS	MOD980965982	F	1990	Dow/DuPont	MO
07	NEBRASKA ORDNANCE PLANT (FORMER)	NE6211890011	F	1990	DOW	NE
07	ORONOGO-DUENWEG MINING BELT	MOD980686281	F	1990	DuPont	MO
08	LOWRY LANDFILL	COD980499248	F	1984	Dow/DuPont	CO
08	MYSTERY BRIDGE RD/U.S. HIGHWAY 20	WYD981546005	F	1990	DOW	WY
08	RICHARDSON FLAT TAILINGS	UTD980952840	P	1992	DuPont	UT
09	CASMALIA RESOURCES	CAD020748125	F	2001	Dow/DuPont	CA
09	DEL AMO	CAD029544731	F	2002	DOW	CA
09	DEL MONTE CORP. (OAHU PLANTATION)	HID980637631	F	1994	DOW	HI
09	FAIRCHILD SEMICONDUCTOR CORP. (MOUNTAIN VIEW PLANT)	CAD095989778	F	1991	DOW	CA
09	HASSAYAMPA LANDFILL	AZD980735666	F	1987	DOW	AZ
09	INDUSTRIAL WASTE PROCESSING	CAD980736284	F	1990	DOW	CA
09	LORENTZ BARREL & DRUM CO.	CAD029295706	F	1989	Dow/DuPont	CA
09	OMEGA CHEMICAL CORPORATION	CAD042245001	F	1999	Dow/DuPont	CA
09	OPERATING INDUSTRIES, INC., LANDFILL	CAT080012024	F	1986	Dow/DuPont	CA
09	PURITY OIL SALES, INC.	CAD980736151	F	1983	DOW	CA
10	PORTLAND HARBOR	ORSFN1002155	F	2000	DOW	OR
10	WESTERN PROCESSING CO., INC.	WAD009487513	F	1983	DOW	WA
10	BLACKBIRD MINE	IDD980725832	P	1993	DOW	ID

Region	Site Name	EPA ID	NPL
01	SEAWAY BOAT	MED982547960	N
02	BARCELONETA LANDFILL	PRD980509129	D
02	BAYONNE DRUM & BARREL CO	NJD009871401	N
02	CLOTHIER DISPOSAL	NYD000511576	D
02	DUPONT /NECCO PARK	NYD980532162	N
02	ENRX. INC.	NYD175762616	N
02	ENVIROTEK	NYD021744537	N
02	HOPKINS FARM	NJD980532840	D
02	MORGAN ORDINANCE DEPOT(AKATA/GILLESIPIE	NJD986652519	N
02	NEWBURGH LANDFILL	NYD980534846	N
02	NIAGARA COUNTY REFUSE	NYD000514257	D
02	PFOHL BROTHERS LANDFILL	NYD980507495	D
02	PIONEER SMELTING CO INC	NJD014786982	N
02	PORT REFINERY	NYD986954048	N
02	PULVERIZING SERVICES	NJD980582142	N
02	RENORA, INC.	NJD070415005	D
02	SAYREVILLE LANDFILL	NJD980505754	D
02	TABERNACLE DRUM DUMP	NJD980761357	D
02	WARWICK LANDFILL	NYD980506679	D
02	WIDE BEACH DEVELOPMENT	NYD980652259	D
03	AMCHEM PROD INC	PAD002348324	N
03	BAHN WAREHOUSE	PAD987277977	N
03	DIXIE CAVERNS COUNTY LANDFILL	VAD980552095	D
03	DUPONT EXPLOSIVES	PAD981939325	N
03	EAST COAST TRAILER SALES	PA0000634659	N
03	KENT COUNTY LANDFILL (HOUSTON)	DED980705727	W
03	METCOA	PAD080719446	N
03	MOYERS LANDFILL	PAD980508766	D
03	NEW CASTLE ABANDONED CONTAINER SITE	DED981736440	N
03	ROHM AND HAAS CO. LANDFILL	PAD091637975	R
03	SEAFORD-ARBUTUS WELL FIELD	DED984075523	N
03	SPELTER ZINC PLANT	WV0000634584	N
03	WADE (ABM)	PAD980539407	D
03	WELCOME JOY	WVD980693477	N
03	WILDCAT LANDFILL	DED980704951	D
04	A.L. TAYLOR (VALLEY OF DRUMS)	KYD980500961	D
04	BAY DRUM	FLD088783865	A
04	BCX FACILITY	FLD982109761	N
04	BIOLOGICAL PROCESSORS OF ALABAMA	ALR000037929	N
04	CALDWELL SYSTEMS INC	NCD086871282	N
04	CAROLINA STEEL DRUM CORP	SCD980559926	N
04	CHEM SPRAY	FLD981020514	N
04	DIXIE BARREL & DRUM COMPANY	TND034692632	N
04	DOCKERY PROPERTY	NCD980840342	A
04	ELLIS ROAD/AMERICAN ELECTRIC CORP.	FLD981931827	N
04	HOWE VALLEY LANDFILL	KYD980501191	D

04	LEE'S LANE LANDFILL	KYD980557052	D
04	LWD INC	KYD088438817	N
04	MCCLUSKEY'S FARM	GAD980729339	N
04	MURPHY AVE DRUM SITE	GA0001913185	N
04	SEVEN OUT LLC TANK	GAN000407811	N
04	US STEEL AGRICHEM/OLD BLUE CHEMICAL	SCD987591948	N
04	YELLOW WATER ROAD	FLD980844179	D
05	AUTOMATIC CONTAINERS INCORPORATED	OHD980611321	N
05	B & E LANDFILL	OHD980794648	N
05	BERLIN & FARRO	MID000605717	D
05	BOERKE	WID981189632	N
05	BOHATY DRUMS	OHD987033743	N
05	BOWERS LANDFILL	OHD980509616	D
05	CADIE AUTO SALVAGE	ILN000510522	N
05	CALUMET CONTAINER	IND980500193	N
05	CHEMICAL RECOVERY	OHD057001810	N
05	CLAYTON CHEM CO	ILD066918327	N
05	CLIFF/DOW DUMP	MID980608970	D
05	COMMERCIAL OIL SERVICE INCORPORATION	OHD000816843	N
05	CONSERVATION CHEMICAL COMPANY	IND040888992	N
05	DOW CHEM CO MICHIGAN DIV MIDLAND LOC	MID000724724	N
05	GRANVILLE SOLVENTS INC	OHD004495412	N
05	GREAT LAKES PAVING/ASPHALT	IND980990816	N
05	GREINER'S LAGOONS	OHD980794622	N
05	KINGS MILLS LEAD SITE	OHN000508990	N
05	LASKIN/POPLAR OIL CO.	OHD061722211	D
05	MASTER METALS INCORPORATION	OHD097613871	N
05	MOBILE TANK CAR SERVICE	OHD000720227	N
05	NORTHWESTERN BARREL	WID981095995	N
05	SPRINGVILLE MARSH	OHN000510507	N
05	STERLING MORTON HIGH SCHOOL	ILN000509091	N
05	STICKNEY AVENUE LANDFILL AKA TOLEDO CITY LANDFILL	OHD000605956	N
05	THIRD SITE	IND984876177	A
05	THOMAS SOLVENT COMPANY	MID039993902	N
05	TITTABAWASSEE RIVER, SAGINAW RIVER & BAY	MID980994354	N
05	UNION CARBIDE CORPORATION SITE B LANDFILL	OHD980612147	N
05	US SCRAP	ILD980679484	N
06	ARCHEM COMPANY, INC.	TXD042544270	N
06	ARKANSAS WASTE-TO-ENERGY	ARD982286957	N
06	BAILEY WASTE DISPOSAL	TXD980864649	D
06	BAYOU SORREL	LAD980745541	D
06	BIO-ECOLOGY SYSTEMS, INC.	TXD980340889	D
06	BRIO REFINING, INC.	TXD980625453	D
06	COMPASS INDUSTRIES (AVERY DRIVE)	OKD980620983	D
06	D.L. MUD, INC.	LAD981058019	D
06	DIXIE OIL PROCESSORS, INC.	TXD089793046	D
06	GULF COAST VACUUM SERVICES	LAD980750137	D

06	GULF NUCLEAR	TX0000605258	N
06	GULF NUCLEAR - TAVENOR SITE	TXN000605455	N
06	HARRIS (FARLEY STREET)	TXD980745582	D
06	HILLSDALE DRUMS	LAD985214766	N
06	MARCO OF IOTA	LAD980624514	N
06	MOSLEY ROAD SANITARY LANDFILL	OKD980620868	D
06	ODESSA DRUM COMPANY INC	TXD008012254	N
06	PAB OIL & CHEMICAL SERVICE, INC.	LAD980749139	D
06	PALMER BARGE LINE	TXD068104561	D
06	PESSES CHEMICAL CO.	TXD980699656	D
06	PORT NECHES PIPELINE FIRE	TXN000606841	N
06	ROGERS ROAD MUNICIPAL LANDFILL	ARD981055809	D
06	SAND SPRINGS PETROCHEMICAL COMPLEX	OKD980748446	D
06	SOUTH 8TH STREET LANDFILL	ARD980496723	D
06	STATE MARINE OF PORT ARTHUR	TXD099801102	D
06	WEBSTER - GULF NUCLEAR	TX0000605420	N
07	CONTAINER RECYCLING, INC - KANSAS CITY	KSD065764995	N
07	DU PONT, E I DE NEMOURS & CO -FT MADISON	IAD005272398	A
07	E.I. DU PONT DE NEMOURS & CO., INC. (COUNTY ROAD X23)	IAD980685804	D
07	FINDETT CORP.	MOD006333975	R
07	GREAT LAKES CONTAINER CORP - ST LOUIS	MOD086827359	N
07	OSAGE METAL COMPANY	KSD031295660	N
07	PCB INC - KANSAS	KSD980963565	N
07	PCB INC - MISSOURI	MOD063670350	N
07	RED OAK CITY LANDFILL	IAD980632509	D
08	COLORADO SCHOOL OF MINES RI/CREEKSIDE	COD000823401	N
08	HANSEN CONTAINERS	COD081469801	N
08	MOLINE STREET PCBS	COD030446637	N
08	PETROCHEM RECYCLING CORP./EKOTEK PLANT	UTD093119196	D
08	RAMP INDUST INC	COD980718985	N
08	ROCKY FLATS INDUSTRIAL PARK (THORO - AERRCO - GWI)	COD980807374	S
08	TREASURE MOUNTAIN MIDDLE SCHOOL	UTN000802495	N
08	TWINS INN	CO0001101476	N
08	WOODBURY CHEMICAL CO.	COD980667075	D
09	GENERAL DSPL CO	CAD980735856	N
09	RIO TINTO COPPER MINE	NV3141190030	N

Party Name/ Affiliate	State
DOW	ME
DOW/DuPont	PR
DuPont	NJ
DuPont	NY
DuPont	NY
DOW/DuPont	NY
DOW	NY
DOW	NJ
DuPont	NJ
DuPont	NY
DuPont	NY
DuPont	NY
DuPont	NJ
DuPont	NY
DOW/DuPont	NJ
DuPont	NJ
DOW	NJ
DOW/DuPont	NJ
DOW	NY
DOW/DuPont	NY
DOW	PA
DuPont	PA
DOW	VA
DuPont	PA
DuPont	PA
DuPont	DE
DOW/DuPont	PA
DOW	PA
DuPont	DE
DOW	PA
DuPont	DE
DuPont	WV
DOW/DuPont	PA
DOW	WV
DuPont	DE
DOW	KY
DuPont	FL
DuPont	FL
DOW	AL
DuPont	NC
DuPont	SC
DuPont	FL
DOW	TN
DOW/DuPont	NC
DuPont	FL
DOW	KY

DOW/DuPont	KY
DuPont	KY
DuPont	GA
DOW	GA
DuPont	GA
DOW	SC
DuPont	FL
DuPont	OH
DuPont	OH
DOW/DuPont	MI
DuPont	WI
DOW	OH
DuPont	OH
DOW/DuPont	IL
DOW/DuPont	IN
DOW/DuPont	OH
DOW	IL
DOW	MI
DOW	OH
DOW/DuPont	IN
DOW	MI
DuPont	OH
DOW	IN
DuPont	OH
DuPont	OH
DOW	OH
DuPont	OH
DOW/DuPont	OH
DuPont	WI
DOW	OH
DuPont	IL
DuPont	OH
DOW	IN
DuPont	MI
DOW	MI
DOW	OH
DuPont	IL
DuPont	TX
DuPont	AR
DOW/DuPont	TX
DOW	LA
DOW/DuPont	TX
DOW	TX
DOW/DuPont	OK
DOW	LA
DOW	TX
DOW	LA

DOW/DuPont	TX
DOW/DuPont	TX
DOW	TX
DuPont	LA
DuPont	LA
DOW	OK
DOW/DuPont	TX
DOW	LA
DuPont	TX
DuPont	TX
DOW	TX
DOW	AR
DuPont	OK
DuPont	AR
DuPont	TX
DOW/DuPont	TX
DuPont	KS
DuPont	IA
DuPont	IA
DOW/DuPont	MO
DuPont	MO
DuPont	KS
DuPont	KS
DuPont	MO
DOW	IA
DOW	CO
DOW	CO
DOW	CO
DuPont	UT
DOW	CO
DOW	CO
DuPont	UT
DOW	CO
DOW	CO
DOW/DuPont	CA
DuPont	NV

Message

From: Cook, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=394F5DEDE6184BC083CF9390E49A192C-COOK, STEVE]
Sent: 7/31/2018 11:23:18 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: Re: Metals US

This is living the dream. They couldn't find an approver to allow me to catch the late night Delta so I have he morning flight now. Region 7 is reworking the schedule so I should still get to all the local folks. Site tour is likely a casualty.

Sent from my iPhone

On Jul 31, 2018, at 6:37 PM, Wright, Peter <wright.peter@epa.gov> wrote:

> Steven
>
> This is crazy bad luck. I hope you can get an early enough flight in the a.m.
>
> Peter
>
> ---
>
> **From:** Cook, Steven
> **Sent:** Tuesday, July 31, 2018 6:36 PM
> **To:** Wright, Peter <wright.peter@epa.gov>
> **Subject:** Re: Metals US
>
> Well I am now 3 for 3. Flight cancelled and I can get out of here tonight.
>
> Sent from my iPhone
>
> On Jul 31, 2018, at 6:15 PM, Wright, Peter <wright.peter@epa.gov> wrote:
>
>> Steven
>>
>> Sorry to hear about yet more travel problems.
>>
>> If you want to speak before your flight I am at the office for a bit 202-566-9988 or cell Personal Phone / Ex. 6
>>
>> Peter
>>
>> ---
>>
>> **From:** Cook, Steven
>> **Sent:** Tuesday, July 31, 2018 6:14 PM
>> **To:** Wright, Peter <wright.peter@epa.gov>
>> **Subject:** Re: Metals US
>>
>> These technology folks seem to be the most persistent. Dana or Jim probably have previously reviewed.
>>
>> On another note - now in third delay for my flight. However they are still threatening to board and take off - storm clouds in the distance. Sensing a time warp convergence of some kind.

Sent from my iPhone

On Jul 31, 2018, at 6:10 PM, Wright, Peter <wright.peter@epa.gov> wrote:

Steven

When you have some time, let's discuss.

Peter

From: Cook, Steven
Sent: Monday, July 30, 2018 12:42 PM
To: Wright, Peter <wright.peter@epa.gov>
Subject: FW: Metals US

Any thoughts on this?

From: Chancellor, Erin
Sent: Monday, July 16, 2018 12:27 PM
To: Cook, Steven <cook.steven@epa.gov>
Subject: FW: Metals US

This is an outstanding item from the last CHEJ meeting. Seems like we need to decide if we want to set up a meeting and hear more about this technology.

Erin E. Chancellor

From: Chancellor, Erin
Sent: Monday, May 14, 2018 9:18 AM
To: Steven Cook (Cook.steven@Epa.gov) <Cook.steven@Epa.gov>; Silvina Fonseca (Fonseca.Silvina@epa.gov) <Fonseca.Silvina@epa.gov>; Veronica Darwin (darwin.veronica@epa.gov) <darwin.veronica@epa.gov>; Nick Falvo <falvo.nicholas@epa.gov>
Subject: FW: Metals US

Info Kell referred to in the Lois Gibbs follow ups.

Erin E. Chancellor

From: Kelly, Albert
Sent: Friday, April 27, 2018 9:52 AM
To: Chancellor, Erin <chancellor.erin@epa.gov>
Subject: FW: Metals US

East Chicago and Dupont

Albert Kelly
Senior Advisor to the Administrator
1200 Pennsylvania Avenue, NW
Washington, DC 20460
202 306 8830

From: John Hammen [mailto:john.hammen@metalsus.com]
Sent: Friday, April 27, 2018 4:34 AM
To: Larry Davis <lad@netnitco.net>
Cc: Kelly, Albert <kelly.albert@epa.gov>
Subject: Re: Metals US

Hello Mr. Davis,

It is good to be introduced to you via e-mail, and I appreciate Mr. Kelly bringing us together. From the bit that I have heard from Mr. Kelly and your own description, it sounds like this project could be an ideal application for our technology to bring about a better outcome than that possible through other processes. I would look forward to discussing further with you to understand the project better and confirm this, and if so, begin envisioning a path towards verification and implementation. I would also be pleased and honored to present to your group and community. As far as the politics go, I will leave that up to you and Mr. Kelly to discuss as you are far more knowledgeable about it than I. However, on our end, I know myself and my team would very much look forward to a chance to meet with you.

You have my email here. My phone is Personal Phone / Ex. 6 I have also attached a couple of documents with more information about the technology. Feel free to give me a call any time to discuss further. Best Regards,

-John

On Thu, Apr 26, 2018 at 5:51 PM, Larry Davis <lad@netnitco.net> wrote:

> Hello Mr. Kelly, This looks like it could be very promising for the remaining 25% concentrate once the 75% by weight Quartz sand in local soils is separated out using hydrocyclone technology or some other means of clean physical separation with high throughput…
>
> Of course it would require convincing both U.S. EPA Staff and the Responsible Parties that a permanent solution is better than the current plans for both the USS Lead Superfund Site and the DuPont Facility in East Chicago, Indiana.
>
> I remain convinced that the best thing in the long-term for both the companies and communities is to fully eliminate the toxic liabilities by reclaiming the valuable chemicals and metals rather than leave massive amounts of them on-site

or in the on-site landfill of questionable integrity that cannot meet minimum technical requirements for Resource Conservation and Recovery Act land disposal of solid wastes.

Paying millions to throw away (land dispose) valuable, rare, and strategic minerals and metals just doesn't seem like a good idea no matter who is paying for it… It only ensures a long-term toxic threat to surrounding communities and drinking water supplies like Lake Michigan will go on forever.

Ideally a successful demonstration in East Chicago, Indiana could be applied elsewhere at other clean-up sites and Brownfield sites with similar circumstances.

Sincerely;

Larry Davis

268 South 600 West

Hebron, Indiana 46341

(219) 488-6052

< lad@netnitco.net >

From: Kelly, Albert [mailto:kelly.albert@epa.gov]
Sent: Thursday, April 26, 2018 12:59 PM
To: lad@netnitco.net
Cc: john.hammen@MetalsUS.com
Subject: Metals US

Hello Mr. Davis, I wanted to introduce you to John Hammen who is copied on this email. He is the CEO of Metals US and has a process that he believes will timely and properly separate and purify high value metals from water or soil or otherwise. Given you suggestion of the high minerals levels in East Chicago and Dupont, I thought an introduction of the two of you was in order. I did explain the

circumstance regarding the 127,000 tons of arsenic there. I would appreciate your letting me know if this has any application there in your opinion.

Albert Kelly

Senior Advisor to the Administrator

1200 Pennsylvania Avenue, NW

Washington, DC 20460

202 306 8830

--

John Hammen | Chief Executive Officer

Metals US

Ex. 6 Personal Privacy (PP)

www.metalsus.com

Message

From: Cogliano, Gerain [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4BA589A367194EFD92030BFBE891A298-COGLIANO, GERAIN]
Sent: 8/22/2018 11:27:08 AM
To: Darwin, Veronica [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc98aaf2f15a466baede3dab0e27a35e-Darwin, Ver]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]
CC: Hostage, Barbara [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=13c503d29e7a4eceb13c449d182eca25-BHostage]; Noggle, William [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=24084230d263442f84dacc362c096c11-WNOGGLE]
Subject: Info for Mtg with Brittany on OLEM actions
Attachments: OLEM reg and sign guid status report-milestones-August 22 2018.docx; RMP Reconsideration NPRM public comments summary8-16-2018.docx

Good morning,

Attached is OLEM's Reg and Significant Guidance Report. The only changes to yesterday's version are:

Ex. 5 Deliberative Process (DP)

Per Brittany's request from the last meeting, also attached is the summary of the RMP comments received as of 8/16th. Comment period ends tomorrow.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

We'll have that ready for your next meeting with Brittany (unless she needs it sooner).

Message

From: Hilosky, Nick [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=39E1182AC8CD4709AE0787CA4A068D2D-NHILOSKY]
Sent: 7/30/2018 9:17:04 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]
CC: Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Simon, Nigel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2f1084d32324dcd965683a9d2f09764-Simon, Nigel]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: FW: Draft Proposal for BF Grant Program to Support the siting of recycling facilities
Attachments: BF Deliberative Process / Ex. 5 Grants.docx

FYI...passing this on.
Nick

From: Overmeyer, Patricia
Sent: Monday, July 30, 2018 4:56 PM
To: Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Cc: Lloyd, David <Lloyd.DavidR@epa.gov>; Lentz, Rachel <Lentz.Rachel@epa.gov>; Storm, Aimee <storm.aimee@epa.gov>; Quinn, Megan <Quinn.Megan@epa.gov>; Congdon, Rachel <Congdon.Rachel@epa.gov>; Minor-Gordon, Jerry <Minor-Gordon.Jerry@epa.gov>; Gorini, Kelly <Gorini.Kelly@epa.gov>
Subject: Deliberative Process / Ex. 5

Nick:

Deliberative Process / Ex. 5

Anyway, the attached is the draft concept paper that Peter and Barry asked us to produce.

Thanks,
Patricia

Patricia Overmeyer
EPA Office of Brownfields and Land Revitalization
202-566-2774

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/30/2018 9:04:07 PM
To: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
CC: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: ASAP For Steven's Review--Due COB Today: Administrator Cheat Sheets
Attachments: OLEM-1 CCR rule.AdminTPs.v2.docx; OLEM-4 Chem Facility RMP.Admin.TPsv2.docx

Importance: High

Hi Steven,

Attached a draft talking points on CCR and RMP. Peter has reviewed them and provided input.

Please let me know if you have any changes/edits. Thanks.

Jackie

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Harwood, Jackie
Sent: Monday, July 30, 2018 3:04 PM
To: Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>
Subject: RE: For Peter/Steven Review--Due COB Today: Administrator Cheat Sheets

Sorry I just realized these need to be 1-2 talking points per topic. I'll redo and send you revised versions to review.

Thanks.
Jackie

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Harwood, Jackie
Sent: Monday, July 30, 2018 2:57 PM
To: Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>
Subject: For Peter/Steven Review--Due COB Today: Administrator Cheat Sheets
Importance: High

Hi Peter and Steven,

In response to Troy's request below, attached are two single-paged cheat sheets on CCR and RMP that I prepared based on the latest talking points Peter put together – **for your review.**

Let me know if you have any comments or edits. Once I hear back from you, I'll send these on to Troy et. al. before COB today.

Thanks.
Jackie

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Hilosky, Nick
Sent: Monday, July 30, 2018 2:17 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Manges, Ellen <Manges.Ellen@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>
Subject: FW: INPUT NEEDED--Administrator Cheat Sheet
Importance: High

URGENT!

From: Lyons, Troy
Sent: Monday, July 30, 2018 2:14 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Chancellor, Erin <chancellor.erin@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>
Subject: INPUT NEEDED--Administrator Cheat Sheet
Importance: High

Team—the Administrator would like a single paged cheat sheet on the top issues most likely to be asked. To accommodate this request, please provide 1-2 talking points that the Administrator could read verbatim, if needed. **This needs to be completed by COB today so he can review this evening.** Let me know if I have missed any topics.

Please let me know if you have any questions.

OAR

- CAFE
- California Waiver--OAR
- Cross Border
- Kigali Amendment/Hydrofluorocarbons
- Small Refinery Exemptions
- New Source Review
- Once In, Always In

OCSPP

- TSCA Implementation
- Methylene Chloride
- Formaldehyde

OLEM

- CCR
- Risk Management Plan

ORD

- Secret Science
- Science Advisory Boards—Conflicts of Interest

OW

- PFAS
- Lead

_____

Troy M. Lyons
Associate Administrator
Office of Congressional & Intergovernmental Relations
U.S. Environmental Protection Agency
Ex. 6 Personal Privacy (PP) cell)

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/27/2018 9:56:53 PM
To: Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]; Palich, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=330ad62e158d43af93fcbbece930d21a-Palich, Chr]; Frye, Tony (Robert) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=58c08abdfc1b4129a10456b78e6fc2e1-Frye, Rober]; Levine, Carolyn [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=468b48e304cf4c54a52bb7c83a54fd21-CLevin02]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]
Subject: Examples of Brownfields in SEPW Member States
Attachments: Senate EPW BF Examples July2018.docx

Attached are good examples of the work EPA is doing with brownfields sites in each of the SEPW member states—for the Acting Administrator's background book. Please let us know if you have any questions or need anything else.

Thank you.
Jackie

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Harwood, Jackie
Sent: Friday, July 27, 2018 3:12 PM
To: Lyons, Troy <lyons.troy@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Levine, Carolyn <Levine.Carolyn@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Ellen Manges <Manges.Ellen@epa.gov>
Subject: OLEM's Updated Talking Points for Acting Administrator's Background Book

Attached are OLEM's updated talking points for Administrator Wheeler's background book.

Please let us know if you have any questions or need anything else on this.

Thanks.
Jackie

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Breen, Barry
Sent: Friday, July 27, 2018 11:53 AM
To: Brooks, Becky <Brooks.Becky@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Woolford, James <Woolford.James@epa.gov>; Gartner, Lois <Gartner.Lois@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>
Subject: See note re 3 pm

Begin forwarded message:

From: "Lyons, Troy" <lyons.troy@epa.gov>
Date: July 27, 2018 at 11:40:52 AM EDT
To: "Wehrum, Bill" <Wehrum.Bill@epa.gov>, "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>, "Ross, David P" <ross.davidp@epa.gov>, "Wildeman, Anna" <wildeman.anna@epa.gov>, "Forsgren, Lee" <Forsgren.Lee@epa.gov>, "Vizian, Donna" <Vizian.Donna@epa.gov>, "Cook, Steven" <cook.steven@epa.gov>, "Breen, Barry" <Breen.Barry@epa.gov>, "Wright, Peter" <wright.peter@epa.gov>, "Yamada, Richard (Yujiro)" <yamada.richard@epa.gov>, "Greaves, Holly" <greaves.holly@epa.gov>, "Hanson, Paige (Catherine)" <hanson.catherine@epa.gov>, "Traylor, Patrick" <traylor.patrick@epa.gov>, "Bodine, Susan" <bodine.susan@epa.gov>, "Leopold, Matt (OGC)" <Leopold.Matt@epa.gov>, "Beck, Nancy" <Beck.Nancy@epa.gov>, "Bertrand, Charlotte" <Bertrand.Charlotte@epa.gov>, "Baptist, Erik" <Baptist.Erik@epa.gov>
Cc: "Jackson, Ryan" <jackson.ryan@epa.gov>, "Frye, Tony (Robert)" <frye.robert@epa.gov>, "Rodrick, Christian" <rodrick.christian@epa.gov>, "Palich, Christian" <palich.christian@epa.gov>, "Ringel, Aaron" <ringel.aaron@epa.gov>, "Morgan, Ashley" <morgan.ashley@epa.gov>, "Shimmin, Kaitlyn" <shimmin.kaitlyn@epa.gov>, "Kaiser, Sven-Erik" <Kaiser.Sven-Erik@epa.gov>, "Darwin, Henry" <darwin.henry@epa.gov>, "Levine, Carolyn" <Levine.Carolyn@epa.gov>, "Moody, Christina" <Moody.Christina@epa.gov>, "Thundiyil, Karen" <Thundiyil.Karen@epa.gov>, "Davis, Matthew" <Davis.Matthew@epa.gov>
Subject: RE: Updated Talking Points Due COB Today

3:00PM Deadline TODAY

From: Lyons, Troy
Sent: Friday, July 27, 2018 10:37 AM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Vizian, Donna <Vizian.Donna@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Hanson, Paige (Catherine) <hanson.catherine@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Rodrick, Christian <rodrick.christian@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Aaron Ringel (ringel.aaron@epa.gov) <ringel.aaron@epa.gov>; Morgan, Ashley <morgan.ashley@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>; Darwin, Henry <darwin.henry@epa.gov>; Levine, Carolyn <Levine.Carolyn@epa.gov>; Moody, Christina <Moody.Christina@epa.gov>; Thundiyil, Karen <Thundiyil.Karen@epa.gov>; Davis, Matthew <Davis.Matthew@epa.gov>

Subject: Updated Talking Points Due COB Today
Importance: High

As a reminder—the updated talking points from the briefings with the Administrator are **DUE COB TODAY** for the following offices: OAR, OW, OARM, OLEM, OCFO and ORD. This is per the Administrator's request to be able to review the materials this weekend. Let me know if you need the specific action items for your program office.

Updated talking points for OCFO, ORD, OP (briefings occurring later today) should they be needed, will be **due by NOON on MONDAY.**

Troy M. Lyons
Associate Administrator
Office of Congressional & Intergovernmental Relations
U.S. Environmental Protection Agency
Personal Phone / Ex. 6 (cell)

Message

From: Cook, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=394F5DEDE6184BC083CF9390E49A192C-COOK, STEVE]
Sent: 7/18/2018 12:44:21 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Simon, Nigel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2f1084d32324dcd965683a9d2f09764-Simon, Nigel]
Subject: FW: Washington Post CCR

FYI

From: Block, Molly
Sent: Wednesday, July 18, 2018 8:43 AM
To: Cook, Steven <cook.steven@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Hewitt, James <hewitt.james@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Konkus, John <konkus.john@epa.gov>
Subject: Washington Post CCR

Thanks for all your help on this! All in all, this is a pretty fair article.

https://www.washingtonpost.com/national/health-science/epa-eases-rules-on-how-coal-ash-waste-is-stored-across-the-us/2018/07/17/740e4b9a-89d3-11e8-85ae-511bc1146b0b_story.html?utm_term=.df9ab68be947

EPA eases rules on how coal ash waste is stored across U.S.

Juliet Eilperin and Brady Dennis
July 17 7:15 PM

The Environmental Protection Agency finalized a rule Tuesday to overhaul requirements for handling the toxic waste produced by burning coal, providing more flexibility to state and industry officials who had sought a rollback of restrictions put in place in 2015.

The far-reaching rule will dictate how coal ash, which has contaminated waterways in two high-profile spills in Tennessee and North Carolina in the past decade, is stored at more than 400 coal-fired power plants around the country.

The new standards — the first major rule signed by EPA acting administrator Andrew Wheeler — will extend the life of some existing ash ponds from April 2019 until October 2020, empower states to suspend groundwater monitoring in certain cases and allow state officials to certify whether utilities' facilities meet adequate standards. EPA officials estimate that the rule change will save the industry between $28 million and $31 million a year in compliance costs.

"These amendments provide states and utilities much-needed flexibility in the management of coal ash, while ensuring human health and the environment are protected," Wheeler said in a statement. "Our actions mark a significant departure from the one-size-fits-all policies of the past and save tens of millions of dollars in regulatory costs."

Industry officials petitioned the Trump administration last year to reconsider existing standards for the fine powder and sludge — which contains mercury, cadmium, arsenic and other heavy metals — and the new regulation expands on the proposal then-EPA Administrator Scott Pruitt issued in March.

Wheeler worked for several years as a lobbyist for Murray Energy, which supported reconsideration of the coal ash rule, before joining the administration this spring. He said in an interview with The Washington Post this month that he has not lobbied EPA directly for several years, though he lobbied other government departments since President Trump took office.

The Obama administration negotiated for years with environmental groups, electric utilities and other affected industries about how to address coal waste, which can poison wildlife and lead to respiratory illnesses among those living near storage sites. The 2015 rule increased inspections and monitoring of coal ash disposal sites and required measures such as liners in new waste pits to prevent leaks that might threaten nearby drinking water supplies.

Tuesday's rule — which will be followed by a second one, most likely next year, to address how to recycle coal ash to make concrete, gypsum wallboard and pavement — incorporated several requests from industry. For example, it would allow a state to suspend groundwater monitoring if it determines that there are no leaks, contamination or migration of contaminants that can be detected.

And while the initial proposal required a professional engineer to issue a certification of compliance for coal ash storage sites, the new rule will allow state authorities to sign off on it instead.

The rule will allow coal ash impoundments that are at risk for leaks — including ones within five feet of groundwater or in wetlands or seismic zones — to continue operating beyond April 2019, when they were slated to close. Instead, they may remain open under the new rule until October 2020.

In addition, the new rule would allow states to establish their own "risk-based" standards for substances for which there are no federally mandated "maximum contaminant level," or MCL. That could affect the regulation of contaminants such as colbalt, lithium and lead, all of which have been linked to potentially serious health problems in humans.

Jim Matheson, who heads the National Rural Electric Cooperative Association, praised the deadline extension, saying in a statement that "EPA is working to avoid unintended consequences while the agency updates the original rule" to reflect new authority Congress gave the agency a year and a half ago.

Earthjustice senior counsel Lisa Evans criticized the agency for making concessions to the power sector. "Wheeler is on course to give industry exactly what it asks for, regardless of the damage it wreaks on our drinking water and health," she wrote in an email.

Avner Vengosh, a Duke University expert on the environmental impacts of coal ash, said that scaling back monitoring requirements, in particular, could leave communities vulnerable to potential pollution.

"We have very clear evidence that coal ash ponds are leaking into groundwater sources," Vengosh said. "The question is, has it reached areas where people use it for drinking water? We just don't know. That's the problem."

And officials are unlikely to know, he said, unless basic monitoring requirements — which were part of a compromise in 2015 after the EPA decided not to define coal ash as hazardous waste — remain in place.

The EPA aims next year to finalize a separate rule addressing toxic wastewater discharge from power plants, and a senior agency official said that it made sense to align the two deadlines so that utilities could determine how best to comply with both revised standards.

The administration did opt to preserve the 2015 rule's requirement that utilities publicly post the groundwater monitoring data they collect from coal ash disposal sites. This year, more than a dozen power plants across eight states publicly released data showing widespread groundwater contamination from such sites.

Environmental groups seized on the data, pointing to increases in potentially toxic substances such as arsenic detected in the groundwater near coal ash storage pits.

Industry representatives, however, noted that despite evidence of leakage from some existing coal ash storage facilities, whether such leaks have harmed drinking water supplies remains unclear.

EPA officials said they received roughly 160,000 comments on the proposed rule but declined to say how many people favored or opposed it.

During public hearings, agency officials received an earful from environmentalists and residents of communities affected by coal ash. In April, inside the ballroom of a Doubletree Hotel in Arlington, Va., those who testified at a public hearing on the coal ash proposal overwhelmingly opposed a rollback of the Obama-era standards.

"We will oppose this rollback every step of the way, including in the courts," Mary Anne Hitt, the head of the Sierra Club's Beyond Coal campaign, said that day. "Weakening these standards is a betrayal of these families across the country who are counting on you."

Using its authority under the 2016 Water Infrastructure Improvements Act, the EPA has begun delegating significant authority for overseeing coal ash disposal to the states. Oklahoma received federal approval for its own program, Georgia has completed its application and nine other states are in the process of applying.

Message

From: Woolford, James [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9A70358E7660435CBE6AFA87B7B9B71B-WOOLFORD, JAMES]
Sent: 7/30/2018 7:52:51 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Simon, Nigel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2f1084d32324dcd965683a9d2f09764-Simon, Nigel]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Stalcup, Dana [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=70b76eb4c1c54ae585333e7fbcc83fed-Stalcup, Dana]; Lowery, Brigid [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=da8c8861510148a6bdcd084192758505-Lowery, Brigid]; Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Fitz-James, Schatzi [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=91ad13b033f14eda8364bded00eafa8c-Fitz-James, Schatzi]; Cheatham, Reggie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c04c7b4fbf4d45108592282991c719cb-RCheatha]; Clark, Becki [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a906e07f1cd143b9a3c2ddab813b8140-Clark, Becki]; Leonard, Paul [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c348ed6cb853415da623e178603cbc25-Pleonard]; Gervais, Gregory [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d8ca2f7da7c9493988e713608c8feed7-Gervais, Gregory]
Subject: Fwd: News Clips July 30, 2018

Sent from my iPhone

Begin forwarded message:

From: "Zaragoza, Larry" <Zaragoza.Larry@epa.gov>
Date: July 30, 2018 at 3:30:23 PM EDT
Subject: News Clips July 30, 2018

Highlights

"Cleanup Proposed for Hercules, Inc. Superfund site in Gibbstown, N.J." *EPA Region 2*, 27 July 2018.

"EPA proposes cleanup of lead-contaminated residential properties at Eighteen Mile Creek Superfund Site in Lockport, N.Y." *EPA Region 2*, 27 July 2018.

"EPA, NCDEQ and Multistate Trust to Hold Open House and Public Meeting for the Kerr-McGee Chemical Corp Superfund Site in Navassa, N.C." *EPA Region 4*, 26 July 2018.

"U.S. EPA marks one-year anniversary of Superfund Task Force Report with visit to Copper Bluff Mine," *EPA Region 9*, 26 July 2018.

"EPA Deletes Fulton Terminals Site in Fulton, New York from federal Superfund list," *EPA Region 2*, 26 July 2018.

"Companies Preparing Superfund Sites for Next Major Hurricane," *Bloomberg BNA*, 26 July 2018.

"EPA Proposes Deletion of Union Chemical Company As Priority Superfund Site," *Free Press Online*, 26 July 2018.

"EPA's Wheeler gives a nod to solar energy in marking clean-up plan anniversary," *Washington Examiner*, 25 July 2018.

"Trump administration says it's doing a good job cleaning up these toxic sites in N.J.," *NJ.com*, 25 July 2018.

"No new Superfund site for Boulder County, despite what Federal Register says," *Daily Camera*, 25 July 2018.

"Superfund Task Force Announces One-Year Anniversary Accomplishments and Plan for Year Two," *EPA Region 7,* 24 July 2018.

Litigation

"EPA Wants Navajo, States' Gold King Mine Claims Tossed," *Law360*, 26 July 2018.

"Union Pacific Dodges Asarco's Superfund Cleanup Claim," *Law360*, 27 July 2018.

"McCook Field residents' lawsuit over contamination of their Dayton neighborhood moves forward," *WHIO*, 25 July 2018.

"Executives Are Convicted in Alabama Superfund Site Bribe Scheme," *Engineering News-Record*, 25 July 2018.

PFAS/PFOA

"EPA hosts marathon meeting on contaminated water supplies in Bucks, Montco," *WHYY.org*, 25 July 2018.

Crown Cleaners of Watertown Inc.

"Work continues at Crown Cleaners Superfund site in Herrings," *News Cliq*, 29 July 2018.

Gowanus Canal

"Community Gathers To Discuss Vision For North Gowanus," *Bklyner*, 26 July 2018.

"EPA announces progress made on Gowanus Superfund Site," *Brooklyn Downtown Star*, 25 July 2018.

Hercules, Inc. (Gibbstown Plant)

"Cleanup proposed for Gibbstown superfund site," *NJBIZ*, 27 July 2018.

Delaware City PVC Plant

"Formosa closing Delaware facility, moving operations there to Point Comfort," *Victoria Advocate*, 27 July 2018.

"Plastics manufacturing company closing Delaware facility," *Longview News-Journal*, 27 July 2018.

Mohawk Tannery

"Residents weigh in on EPA officials' plans for decontaminating Mohawk Tannery site," *Nashua Telegraph*, 26 July 2018.

"Nashua Residents Want More Cleanup At Toxic Waste Site Tapped For Redevelopment," *New Hampshire Public Radio*, 26 July 2018.

Tar Creek (Ottawa County)

"EPA marks anniversary of Superfund Task Force," *Miami News-Record,* 27 July 2018.

"EPA officials tour Tar Creek Superfund site," *The Journal Record*, 27 July 2018.

Kerr-McGee Chemical Corp. – Columbus

"EPA celebrates Kerr-McGee clean-up in Columbus," *The Dispatch*, 27 July 2018.

Kalamazoo River

"EPA celebrates progress on Kalamazoo River Superfund site cleanup," *MLive*, 25 July 2018.

Eighteen Mile Creek

"Lockport Super Fund Site Cleanup," *WBEN Radio*, 29 July 2018.

Bonita Peak Mining District

"EPA extends comment period on remedial cleanup actions," *The Durango Herald*, 25 July 2018.

Anaconda Co. Smelter

"Agreement reached on Anaconda Superfund cleanup," *Montana Standard*, 29 July 2018.

Libby Asbestos

"Northwest Montana fires smolder on," *Missoulian*, 26 July 2018.

"Highway 37 fire: Officials say public so far not at risk of asbestos exposure, but some firefighters might be," *The Western News*, 25 July 2018.

Silver Bow Creek/Butte Area

"Studies to look at how contamination from mining, smelting might be impacting Butte's health," *Montana Standard*, 25 July 2018.

"Butte Locals Want Superfund Health Study Expanded," *Montana Public Radio*, 26 July 2018.

Treasure Island Naval Station – Hunters Point Annex

"Working in a wasteland," *San Francisco Chronicle*, 26 July 2018.

"Hunters Point homeowners sue developer and scandalized engineering firm," *Curbed San Francisco*, 25 July 2018.

Lockheed West Seattle

"Cleanup begins at Lockheed – West Seattle Superfund site," *Westside Seattle,* 30 July 2018

Potential Sites

"Hoopa Valley Tribe, EPA eye former Trinity River mine for Superfund site," *Times Standard*, 28 July 2018.

Other News

"From Dow's 'Dioxin Lawyer' to Trump's Choice to Run Superfund," *The New York Times*, 28 July 2018.

Message

From: Lloyd, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3DEEDE75DB8E44A790B2F73DEBF00E12-LLOYD, DAVID]
Sent: 7/18/2018 12:29:40 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: OLEM IO Materials [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=527747986aa6457483f5f0fdc070c3f5-OSWER IO Materials]; OLEM OBLR [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6d1a7ece71274cde882aa28d0be7e4d2-OSWER OBLR]; OLEM OBLR [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6d1a7ece71274cde882aa28d0be7e4d2-OSWER OBLR]
Subject: OBLR Short field trip early this afternoon

Ann Carroll of OBLR arranged for a short field trip for our staff today from 12-3 to the Long Bridge Park Brownfield Site in Crystal City. Meade Anderson of VA DEP oversaw the Project development and will lead the site tour. The site was contaminated with pcbs and excessive trash and junk, and now is a park with soccer fields. We will be joined by a German delegation that is in town for meetings with ORD.

https://www.washingtonpost.com/local/arlingtons-long-bridge-park-goes-from-pcbs-and-trash-to-soccer-fields-and-cherry-trees/2011/11/22/gIQAEPDJMO_story.html?utm_term=.f79d716846cd

David R. Lloyd, Director
Office of Brownfields and Land Revitalization
U.S. Environmental Protection Agency
Washington, DC
202-566-2731

Message

From: Leonard, Paul [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C348ED6CB853415DA623E178603CBC25-PLEONARD]
Sent: 7/30/2018 7:35:31 PM
To: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Simon, Nigel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2f1084d32324dcd965683a9d2f09764-Simon, Nigel]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: Fwd: Request for Risk Communication Criteria

As discussed

Paul Leonard
Federal Facilities Restoration and Reuse Office
USEPA
Washington DC
202 564-0539

Sent from my iPhone

Begin forwarded message:

From: "Lovingood, Christina" <Lovingood.Tina@epa.gov>
Date: July 27, 2018 at 1:43:10 PM EDT
To: "Leonard, Paul" <leonard.paul@epa.gov>
Cc: "Gervais, Gregory" <Gervais.Gregory@epa.gov>, "Smith, Susan" <Smith.Susan@epa.gov>, "Thornton, Kecia" <Thornton.Kecia@epa.gov>
Subject: FW: Request for Risk Communication Criteria

Dear Paul, I apologize that I accidentally left you off of this email. Please see our request in the email string below.
Thanks,
t

Tina Lovingood, CPA (VA), CIA, CEA, MBA
Director, Land Cleanup and Waste Management Program Evaluations
Office of Audit and Evaluation
Office of Inspector General
202-566-2906

From: Lovingood, Christina
Sent: Friday, July 27, 2018 1:27 PM
To: Woolford, James <Woolford.James@epa.gov>; Lloyd, David <Lloyd.DavidR@epa.gov>; Johnson, Barnes <Johnson.Barnes@epa.gov>; Hoskinson, Carolyn <Hoskinson.Carolyn@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>
Cc: Stalcup, Dana <Stalcup.Dana@epa.gov>; Overmeyer, Patricia <Overmeyer.Patricia@epa.gov>; Salyer, Kathleen <Salyer.Kathleen@epa.gov>; Barolo, Mark <Barolo.Mark@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Thornton, Kecia <Thornton.Kecia@epa.gov>; Trynosky, Jill <Trynosky.Jill@epa.gov>; El-Zoghbi, Christine <El-Zoghbi.Christine@epa.gov>
Subject: Request for Risk Communication Criteria

Dear OLEM Directors,

The OIG is planning an upcoming assignment in the area of risk communication for OLEM programs.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Please send the requested information and documents (links are ok) by next **Friday, August 3, 2018**. We may also request to meet with you to discuss our scoping process once we've had a chance to review the criteria.

If you have any comments or questions about this approach, please don't hesitate to contact Jill Trynosky at 202-566-2718, or me at the number below.

Thank you,
t

Tina Lovingood, CPA (VA), CIA, CEA, MBA
Director, Land Cleanup and Waste Management Program Evaluations
Office of Audit and Evaluation
Office of Inspector General
202-566-2906

Message

From: Chancellor, Erin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AE6AEABECA754643BDB01C9F5B653CA6-CHANCELLOR,]
Sent: 7/30/2018 7:19:52 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: RE: INPUT NEEDED--Administrator Cheat Sheet

Y'all need anything from me on this? Happy to help.

OLEM

- CCR
- Risk Management Plan

Erin E. Chancellor

From: Lyons, Troy
Sent: Monday, July 30, 2018 2:14 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Chancellor, Erin <chancellor.erin@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>
Subject: INPUT NEEDED--Administrator Cheat Sheet
Importance: High

Team—the Administrator would like a single paged cheat sheet on the top issues most likely to be asked. To accommodate this request, please provide 1-2 talking points that the Administrator could read verbatim, if needed. **This needs to be completed by COB today so he can review this evening.** Let me know if I have missed any topics.

Please let me know if you have any questions.

OAR

- CAFE
- California Waiver--OAR
- Cross Border
- Kigali Amendment/Hydrofluorocarbons
- Small Refinery Exemptions
- New Source Review
- Once In, Always In

OCSPP

- TSCA Implementation
- Methylene Chloride
- Formaldehyde

OLEM

- CCR
- Risk Management Plan

ORD

- Secret Science
- Science Advisory Boards—Conflicts of Interest

OW

- PFAS
- Lead

_____

Troy M. Lyons
Associate Administrator
Office of Congressional & Intergovernmental Relations
U.S. Environmental Protection Agency
Ex. 6 Personal Privacy (PP) cell)

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 8/6/2018 4:58:21 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: RE: Divesting of Stock

Hi Peter,
I'm out of the office today, so let me get back to you tomorrow. Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Wright, Peter
Sent: Monday, August 06, 2018 10:39 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Divesting of Stock

Justina

Ex. 5 Deliberative Process (DP)

Please let me know if you need additional information. Ex. 5 Deliberative Process (DP)
Ex. 5 Deliberative Process (DP)

Thank you as always for your help and guidance.

Have a great week.

Peter

Message

From: Wilbur, Jennifer [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=20F13C4294314508B1B2779E27EC4FE6-JWILBU02]
Sent: 8/13/2018 8:17:50 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Simon, Nigel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2f1084d32324dcd965683a9d2f09764-Simon, Nigel]; Sebring, Meridith [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=34ea9f7289364e3abf71a679965572f0-MSebring]
Subject: RE: FY2020 Budget Narratives (DRAFT)

Glad to give you airplane reading! Yes, these will be read by a series of people/offices. These will be read up through OCFO (and sometimes by others on the 3rd floor – subject dependent). Last year they were read up through Byron Brown, if that gives you an indication. They will go over and be read by OMB, Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Eventually these get released to Congress and are a public statement of the policy intentions of the Administration. (see, https://www.epa.gov/sites/production/files/2017-05/documents/fy-2018-congressional-justification.pdf) Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Again, more than happy to discuss.

Thanks!

Jen

From: Wright, Peter
Sent: Monday, August 13, 2018 3:34 PM
To: Wilbur, Jennifer <Wilbur.Jennifer@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Simon, Nigel <Simon.Nigel@epa.gov>; Sebring, Meridith <Sebring.Meridith@epa.gov>
Subject: Re: FY2020 Budget Narratives (DRAFT)

Jen

Thank you for sending these to me that I have allowed me to review them on the airplane. Are these further reviewed within EPA? Are they read by OMB? Congressional staff?

Peter

Sent from my iPad

On Aug 10, 2018, at 4:09 PM, Wilbur, Jennifer <Wilbur.Jennifer@epa.gov> wrote:

> Peter & Steven,
>
> Attached are the budget narratives for all of our program projects that are slated for funding in FY2020. Deliberative Process / Ex. 5
>
> Deliberative Process / Ex. 5
>
> Let us know if you have any questions or comments. These are due to OCFO on Wednesday, August 15th.
>
> Thank you.
>
> Jennifer
>
> Jennifer M. Wilbur
> Senior Budget Officer and Director, Acquisition and Resources Management Staff
> Office of Program Management
> Office of Land and Emergency Management
> U.S. Environmental Protection Agency
>
> Wilbur.jennifer@epa.gov
> (202) 566-2756

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Grantham, Nancy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=12A3C2ED7158417FB0BB1B1B72A8CFB0-GRANTHAM, NANCY]
Sent: 7/27/2018 9:20:20 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: FW: Quotes to move on the record

As discussed

Thanks ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

-----Original Message-----
From: Tabuchi, Hiroko [mailto:hiroko.tabuchi@nytimes.com]
Sent: Friday, July 27, 2018 4:25 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Konkus, John <konkus.john@epa.gov>; Tryggvi Adalbjornsson <tryggvi.adalbjornsson@nytimes.com>
Subject: Re: Quotes to move on the record

One other thing we wanted to confirm -- We were looking to include something about Mr. Wright's personality/hobbies/background. We have found from our reporting that he grew up in Los Angeles, majored in religion at Wabash College in Indiana before going to law school at Indiana University.

And we noticed that on his Facebook page, Mr. Wright frequently posts about cocktails. And according to a post he made on Oct 5, 2016, he once fashioned an environmentally inspired gin-based blend in honor of his fellow environmental lawyers. He says the Green Chartreuse' s "natural green color and the herbal, earthy flavor.. reminds one of the earth."

Let us know if there is anything you'd like to add or clarify

Many thanks,
Hiroko

Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 | hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi

On Fri, Jul 27, 2018 at 2:29 PM, Tabuchi, Hiroko <hiroko.tabuchi@nytimes.com> wrote:
> Many thanks. And did you also say you were preparing written responses
> to our emailed questions?
>
> Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 |
> hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi
>
>
> On Fri, Jul 27, 2018 at 1:28 PM, Grantham, Nancy <Grantham.Nancy@epa.gov> wrote:
>> Will do
>>
>> Nancy Grantham
>> Office of Public Affairs
>> US Environmental Protection Agency
>> 202-564-6879 (desk)
>> 202-253-7056 (mobile)
>>
>> -----Original Message-----
>> From: Tabuchi, Hiroko [mailto:hiroko.tabuchi@nytimes.com]
>> Sent: Friday, July 27, 2018 1:25 PM
>> To: Grantham, Nancy <Grantham.Nancy@epa.gov>; Konkus, John
>> <konkus.john@epa.gov>
>> Subject: Quotes to move on the record
>>
>> Hi John, Nancy,
>>

>> Thanks again for arranging that call. Here are the quotes I'd like to move on the record. I likely will not be able to get all of them in the story, but I'd like to have that option.
>>
>> And if you are able to confirm that I've attributed the quotes to the right people, that would be much appreciated. And could you please confirm their titles?
>>
>> All best, Hiroko 212-556-2642
>>
>> Rhett Nelson:
>>
>> "Peter was notable for his professionalism, candor, cordiality and grace under pressure, and also had a practical sense of what needed to be done in order to successfully conclude the negotiations."
>>
>> (On Denney allegations:)
>> "I don't recall a correlation between that event and the course of negotiations."
>>
>> "I don't remember that there was any particular impact on the remedial work at the site. There was other data that was available that was reliable."
>>
>> "If we had to throw out some samples, it probably had zero impact on our assessment of environmental conditions at the site."
>>
>>
>> Bob Kaplan:
>>
>> "There was a time early on where the relationship between Dow and the EPA for a whole number of reasons was frayed, and became very contentious. The matter itself was very controversial."
>>
>> "It was EPA's position at the time that the cleanup should proceed more expeditiously, and Dow was doing an inadequate job at the time."
>>
>> "Through it all, I could talk to Peter one on one about positions or issues, and I found him to be professional in all his dealings."
>>
>> "In negotiations especially in high profile matters, sometimes the dynamics of the negotiators matter. What could have been even a more high pressure controversial super heated negotiations came to fruition because of the team dynamics. And that had a lot to do with Peter Wright."
>>
>> (On earlier EPA concerns over Dow actions) "The record speaks for itself. The EPA took action to take it from state lead to Superfund.
>> And from 2007 or so we decided to take a different path."

Message

From: Indermark, Michele [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CF63A0730B3E4D89AA3B8CE9A5D9EAB2-INDERMARK,]
Sent: 8/9/2018 12:45:47 PM
To: Cheatham, Reggie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c04c7b4fbf4d45108592282991c719cb-RCheatha]; Bennett, Tate [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1fa92542f7ca4d01973b18b2f11b9141-Bennett, El]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]
Subject: RE: CERCLA Reporting Rule
Attachments: Wheeler SEPW Q_A Aug 2018.docx; OLEM-CERCLA-EPCRA REPORTING REQUIREMENTS.July 2018 (003) REVISED.docx

Hi All,

I'm providing the final paper we submitted for Andrew Wheeler's hearing on 1 Aug. We also developed a Q/A document that covers RMP, hurricane preparedness and CERCLA/EPCRA FARM Act and I've attached it for your use. Please let us know if you need anything else.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Cheatham, Reggie
Sent: Thursday, August 09, 2018 8:39 AM
To: Bennett, Tate <Bennett.Tate@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: RE: CERCLA Reporting Rule

Folks….please disregard the attachments I sent….we discovered a version control problem…Michele is sending the final versions.

Thanks

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202.564.8003 (O); 202.689.9400 (M);
cheatham.reggie@epa.gov

Doris Williams, Executive Assistant
202.564.0053

From: Cheatham, Reggie
Sent: Thursday, August 09, 2018 8:26 AM
To: Bennett, Tate <Bennett.Tate@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: RE: CERCLA Reporting Rule

Tate

Attached is the CERCLA/EPCRA white paper we did for the Administrator's SEPW hearing. This has been cleared by OGC.

Additionally, here is the Q and A we drafted, in case this comes up:

Ex. 5 Deliberative Process (DP)

Let us know if you need any additional information.

Thanks

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202.564.8003 (O); 202.689.9400 (M);
cheatham.reggie@epa.gov
Doris Williams, Executive Assistant
202.564.0053

From: Bennett, Tate
Sent: Thursday, August 09, 2018 7:45 AM
To: Wright, Peter <wright.peter@epa.gov>
Cc: Cheatham, Reggie <cheatham.reggie@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: Re: CERCLA Reporting Rule

Great. Can you pass it along?

On Aug 9, 2018, at 7:36 AM, Wright, Peter <wright.peter@epa.gov> wrote:

All

We prepared a summary on this topic for the Administrator's Senate hearing briefing book.

Peter

Sent from my iPhone

On Aug 8, 2018, at 8:56 PM, Cheatham, Reggie <cheatham.reggie@epa.gov> wrote:

> Got it Tate
>
> Thanks
>
> Reggie Cheatham, Director
> Office of Emergency Management, USEPA
> 202/564-8003(o)/202/689-9400
> Doris Williams, Executive Assistant
> 202/564-0053
>
> On Aug 8, 2018, at 8:54 PM, Bennett, Tate <Bennett.Tate@epa.gov> wrote:
>
>> Thank you. No need to recreate the wheel, just something similar to what was covered in our official press release.
>>
>> On Aug 8, 2018, at 8:53 PM, Cheatham, Reggie <cheatham.reggie@epa.gov> wrote:
>>
>>> We will get talkers to Tate
>>>
>>> Thanks
>>>
>>> Reggie Cheatham, Director
>>> Office of Emergency Management, USEPA
>>> 202/564-8003(o)/202/689-9400
>>> Doris Williams, Executive Assistant
>>> 202/564-0053
>>>
>>> On Aug 8, 2018, at 6:53 PM, Cook, Steven <cook.steven@epa.gov> wrote:
>>>
>>>> Can someone help out here since I am wandering the left coast ?
>>>>
>>>> Sent from my iPhone
>>>>
>>>> Begin forwarded message:
>>>>
>>>> **From:** "Bennett, Tate" <Bennett.Tate@epa.gov>
>>>> **Date:** August 8, 2018 at 1:21:44 PM PDT
>>>> **To:** "Cook, Steven" <cook.steven@epa.gov

>
Cc: "Dickerson, Aaron" <dickerson.aaron@epa.gov>, "Lovell, Will (William)" <lovell.william@epa.gov>
Subject: CERCLA Reporting Rule

Hi Steve! Do you have any FARM Act Talking Points we can include in the Admin's binder for Iowa? I believe this may come up Monday as I just learned the cattlemen will attend. He is leaving tomorrow for the weekend, so I would need the talkers by noon. Apologies for the late notice! Worst case, the press release may work....copying Will too in case he has anything.

Elizabeth Tate Bennett
Associate Administrator
for Public Engagement
& Environmental
Education
Office of the
Administrator
U.S. Environmental
Protection Agency
(202) 564-1460
Bennett.Tate@epa.gov

Message

From: Smith, Susan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C1A62CA9F6E24D83A94288B6B2D2F7A0-SCSMITH]
Sent: 8/10/2018 8:25:02 PM
To: Lovingood, Christina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3d3c159decd348048b59ddb40266b45a-Lovingood, Christina]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Simon, Nigel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2f1084d32324dcd965683a9d2f09764-Simon, Nigel]; Thornton, Kecia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f2b76071659d45f09279e4d798c062f1-KThornto]; Shropshire, Doris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0cd0f9e5a8e84a7c9ff9d9e99a362f06-DSHROPSH]; Trynosky, Jill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0d2687d0bdda40e1bc1592cd5243bf7e-Trynosky, Jill]; El-Zoghbi, Christine [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=413a9fdb5d9248109a7ae752ebf57388-El-Zoghbi, Christine]
Subject: RE: Request for Risk Communication Criteria
Attachments: Formatted Risk Based Factsheet 6-23-16.pdf; FINAL_RCRA PPM_010917_FSPB.DOCX; Comments for OIG on Risk Communcations.docx

Dear Tina –

Thanks for the opportunity to provide feedback and for meeting with us this past Monday to help clarify the subject request for risk communication criteria. Attached are a collection of comments and several reference documents I received from the various OLEM offices regarding your request. Should I receive additional information from the program offices, I will definitely forward to you. Please let me or Kecia Thornton know if you have any questions or comments. Thanks again!!

Susan

Susan Smith, Director/ PMO
Organizational Management and Integrity Staff
Office of Land and Emergency Management/U.S. EPA
1301 Constitution Ave., NW, Washington, DC 20460
4139 WJC West/MC: 5101T

202-564-6656 (office)
202-834-8239 (cell)

Follow OLEM **on Twitter @EPALand**

From: Lovingood, Christina
Sent: Friday, July 27, 2018 1:27 PM
To: Woolford, James <Woolford.James@epa.gov>; Lloyd, David <Lloyd.DavidR@epa.gov>; Johnson, Barnes <Johnson.Barnes@epa.gov>; Hoskinson, Carolyn <Hoskinson.Carolyn@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>
Cc: Stalcup, Dana <Stalcup.Dana@epa.gov>; Overmeyer, Patricia <Overmeyer.Patricia@epa.gov>; Salyer, Kathleen <Salyer.Kathleen@epa.gov>; Barolo, Mark <Barolo.Mark@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Thornton, Kecia <Thornton.Kecia@epa.gov>; Trynosky, Jill <Trynosky.Jill@epa.gov>; El-Zoghbi, Christine <El-

Zoghbi.Christine@epa.gov>
Subject: Request for Risk Communication Criteria

Dear OLEM Directors,

The OIG is planning an upcoming assignment in the area of risk communication for OLEM programs.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 for each of the OLEM program areas (Superfund, RCRA, Brownfields, LUST, Emergency Response). Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Please send the requested information and documents (links are ok) by next **Friday, August 3, 2018**. We may also request to meet with you to discuss our scoping process once we've had a chance to review the criteria.

If you have any comments or questions about this approach, please don't hesitate to contact Jill Trynosky at 202-566-2718, or me at the number below.

Thank you,
t

Tina Lovingood, CPA (VA), CIA, CEA, MBA
Director, Land Cleanup and Waste Management Program Evaluations
Office of Audit and Evaluation
Office of Inspector General
202-566-2906

Resource Conservation and Recovery Act Public Participation Manual

December 30, 2016

United States Environmental Protection Agency
Office of Land and Emergency Management
5305P
Washington, DC 20460

530-R-16-013

NOTICE

This manual reviews regulatory requirements and provides policy guidance to help implement the Resource Conservation and Recovery Act (RCRA) program. The policies in the manual are not final Agency action, but are intended solely as guidance. They are not intended, nor can they be relied on, to create any rights enforceable by any party in litigation with the U.S. Environmental Protection Agency. Officials may decide to follow the guidance provided in this document, or to act at variance with the guidance, based on an analysis of site or facility circumstances. The Agency reserves the right to change this guidance at any time without public notice.

This manual replaces and supersedes the 1996 RCRA Public Participation Manual (EPA 530-R-96-007). It is for Agency staff, owners/operators of hazardous waste management facilities, community members and public interest organizations.

ED_002087_00000765-00002

TABLE OF CONTENTS

[TOC \O "1-3" \H \Z \U]

ACRONYMS AND ABBREVIATIONS

Agency	U.S. Environmental Protection Agency
ANPR	Advance Notice of Proposed Rulemaking
ATSDR	Agency for Toxic Substances and Disease Registry
CAG	Community Advisory Group
CBEP	Community Based Environmental Protection
CEI	Community Engagement Initiative
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFR	Code of Federal Regulations
CMI	Corrective Measures Implementation
CMS	Corrective Measures Study
EJ	Environmental Justice
EPA	Environmental Protection Agency
FR	Federal Register
HSWA	Hazardous and Solid Waste Amendments
HW	Hazardous Waste
NEJAC	National Environmental Justice Advisory Council
NOD	Notice of Deficiency
OLEM	Office of Land and Emergency Management (renamed from OSWER in 2015)
OSWER	Office of Solid Waste and Emergency Response (renamed OLEM in 2015)
PEHSU	Pediatric Environmental Health Specialty Units
PTAP	Partners in Technical Assistance Program
RCRA	Resource Conservation and Recovery Act
RFA	RCRA Facility Assessment
RFI	RCRA Facility Investigation
SWMU	Solid Waste Management Unit
TANA	Technical Assistance Needs Assessment

ED_002087_00000765-00003

TSD	Treatment, Storage and Disposal Facility

ED_002087_00000765-00004

PREFACE

The U.S. Environmental Protection Agency (EPA) and its partner states implement the Resource Conservation and Recovery Act (RCRA) program. The RCRA program protects our communities and the environment from the threats of solid and hazardous waste, cleans up land and water, conserves resources, and empowers community members by delivering information and opportunities that enable communities to participate in decision-making processes. Since Congress enacted the RCRA program in 1976, it has achieved remarkable improvements in the protection of human health and the environment by more effective management of hazardous and solid wastes.

This manual explains how to implement public participation activities throughout the RCRA permitting and corrective action processes. In the same way that a user's manual explains how a car or an appliance works, this manual explains how RCRA public participation works and how community members, regulators and industry can cooperate to make it better.

The manual emphasizes the importance of cooperation and communication, and highlights the public's role in providing valuable input during the permitting and corrective action processes. It also furthers EPA's commitments to early and meaningful involvement for communities, open access to information, and the important role of public participation in addressing environmental justice concerns.

The manual aims to promote consistent national policy on these issues. It does not substitute for RCRA statutory or regulatory requirements, nor is it a regulation itself. It does not impose legally binding requirements on EPA, states or the regulated community and may not apply to a particular situation based upon the circumstances. EPA, state, tribal and local decision-makers retain the discretion to adopt approaches on a case-by-case basis that differ from the guidance in this manual, where appropriate.

Audience for the RCRA Public Participation Manual

EPA wrote this manual to help all stakeholders involved in the RCRA permitting or corrective action processes, particularly those who conduct public participation activities.

If you are a government regulator:

This manual provides details about public participation requirements, outlines EPA's current policies, and encourages increased public input into RCRA decision-making. It provides information on how to open a dialogue with other stakeholders, assess communities and be sensitive to their concerns, plan for public participation, fulfill statutory and regulatory requirements, and go beyond the requirements where appropriate.

If you own or operate a hazardous waste management facility:

This manual describes when and how to conduct public participation activities. It lays out the owner/operator's responsibilities and activities, and identifies how the permitting agency (or EPA, in states that have no authorized corrective action programs) conducts other activities. It discusses how to more effectively interact with the community around the facility, act in ways that are sensitive to their concerns, and cooperate and communicate with all stakeholders. It also describes public participation opportunities that go beyond the statutory or regulatory requirements.

ED_002087_00000765-00005

If you are a community member or a member of a local community group:

This manual describes the many public participation activities that RCRA requires. It points out steps that agencies, companies and public interest groups can take to provide additional public input into the RCRA process. It also contains links to other resources to learn more about RCRA and public participation.

If you are a member of a public interest or environmental group:

This manual discusses the federal requirements for public participation. It explains how organizations can get involved and provides useful tips for working with other stakeholders. It bases these tips on the experience of people who conduct public participation. It also explains how to conduct public participation activities and provides links to resources for more information.

2016 Version

This 2016 RCRA Public Participation Manual replaces the 1996 version. The updates and revisions to the document reflect current regulations, policies and practices. It presents new information about technical assistance, environmental justice, social media and other topics that have come to the forefront since the 1996 edition.

For many years since the 1996 edition, RCRA permitting programs focused on issuing initial permits. Today, however, permit maintenance and modifications account for most permitting activity since the majority of hazardous waste management facilities are already permitted. This 2016 manual includes updated and expanded information about permit modifications, the level of public participation corresponding to each permit modification classification, and best practices for site-specific public participation.

How to Use the RCRA Public Participation Manual

This manual provides general guidance about how to conduct public participation activities at RCRA facilities. While users can read the entire document, each chapter is an independent reference and resource. The manual's chapters are:

- **Chapter 1: Introduction** discusses the goals of RCRA public participation, provides an overview of the history of RCRA public participation, and describes the evolution of EPA's approach to RCRA public participation from its beginnings in the late 1970s to the present.
- **Chapter 2: Building a Foundation for Successful Public Participation** explains some basic principles that often lead to successful public participation at RCRA facilities.
- **Chapter 3: Public Participation During the RCRA Permitting Process** discusses the basic steps in the RCRA permitting process and the public participation activities that accompany those steps. It also provides a list of additional participation activities to supplement the requirements.
- **Chapter 4: Public Participation in RCRA Corrective Action Under Permits and RCRA § 3008(H) Orders** details EPA's public participation guidelines for the corrective action program. It reflects the current EPA position on these issues as the corrective action program continues to evolve.
- **Chapter 5: RCRA Public Participation Activities** provides detailed descriptions of dozens of public participation techniques—required and optional, formal and informal. It explains all the public participation methods mentioned in the previous chapters and provides information on additional methods.

ED_002087_00000765-00006

Other Resources

Readers are encouraged to consult the relevant RCRA statutory provisions and regulations in the Code of Federal Regulations (CFR), [HYPERLINK "http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=40:1.0.1.1.24"] (EPA's public participation rules for RCRA, Safe Drinking Water Act and Clean Water Act programs) and [HYPERLINK "http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=2e22f36f839c8fda8e0e4c7de70a28e1&mc=true&n=pt40.24.124&r=PART&ty=HTML"], and to visit EPA's hazardous waste [HYPERLINK "http://www.epa.gov/waste/hazard/tsd/permit/pubpart/index.htm"] to learn more about public participation activities required by each permitting program. This manual also highlights additional resources throughout the text.

ED_002087_00000765-00007

CHAPTER 1: INTRODUCTION

This chapter discusses the goals of RCRA public participation, provides an overview of the history of RCRA public participation, and describes the evolution of EPA's approach to RCRA public participation from its beginnings in the late 1970s to the present.

This manual covers federal public participation requirements. States may have additional requirements.

Goals of RCRA Public Participation

RCRA brings government, private industry, public interest groups and communities together to make important decisions about hazardous waste management facilities. Public participation plays an integral role in this decision-making. EPA uses the term public participation for the activities where permitting agencies and permittees encourage public input and feedback, have a conversation with the public, provide access to decision-makers, incorporate public viewpoints and preferences, and demonstrate that decision-makers have considered those viewpoints and preferences (see 40 Code of Federal Regulations (CFR) § 25.3(b)).

The public refers to not only local community members but also representatives of consumer, environmental, faith, and minority associations; trade, industrial, agricultural, and labor organizations; public health, scientific, and professional societies; civic associations; public officials; and governmental and educational associations (see 40 CFR § 25.3(a)). It is important to note that these larger, national groups may not always have the same interests as local community members. Local communities should have a more primary role in local decisions that directly impact their day-to-day lives.

There are many reasons for agencies, facilities and interest groups to engage the public, and many reasons for community members to participate fully in RCRA decision-making:

- Community members are more likely to accept and support RCRA actions when they have had an active role in shaping the decision. When a regulatory agency or facility shows that it is willing to listen to community concerns, it establishes the foundation for improved understanding, even if community members do not agree with the outcome.
- RCRA and its implementing regulations require facilities and permitting agencies to conduct public participation activities. Additional public participation activities can complement the required activities.
- Public input helps agencies, permittees and prospective applicants reach better technical solutions and make better policy decisions. With public input, technical staff can better account for local circumstances in permitting and corrective action decisions, and mitigate risk more effectively.
- Permitting agencies make many controversial decisions. While these decisions rely on technical expertise, public participation in decision-making is an essential element of good government.

Both the community and permitting agency benefit from well-designed and executed RCRA public participation. RCRA host communities benefit from:

- a better understanding of the RCRA implementation process;
- opportunities to influence the decision-making process;

ED_002087_00000765-00008

- a better understanding of living and doing business sustainably;
- involvement in a process that builds cohesion and promotes community inclusiveness; and
- a corrective action approach that considers a community's needs and concerns, and minimizes risks and negative impacts.

The permitting agency benefits from:

- improved access to local and historical information about exposure pathways, unique ways in which the community uses local resources, and exposure scenarios for anticipated land uses;
- better understanding of community needs and concerns, values, cultures, habits and demographic characteristics;
- increased awareness of whether certain community segments may face environmental justice concerns;
- an understanding of the community-based and government organizations and leaders that serve, interact with and have built trust within the community;
- a strong partnership with the community based on trust and respect;
- collaboration and cooperation between the community and the agency, which minimizes potential conflicts and costly, unnecessary delays;
- improved decisions, resulting in time and cost savings, helps achieve all goals (e.g., permitting, transparency, correction action, protectiveness) more quickly and efficiently;
- opportunities to engage responsible stewards who may ensure the property is managed appropriately in the future; and
- improved community acceptance and support of agency decisions.

RCRA and Its 1984 Amendments

Congress enacted RCRA, an amendment to the Solid Waste Disposal Act, in 1976 to address the safe management and disposal of the high volumes of municipal and industrial solid waste generated nationwide. RCRA's goals were to:

- protect human health and the environment from the potential hazards of waste disposal;
- conserve energy and natural resources;
- reduce the amount of waste generated; and
- ensure environmentally sound waste management.

RCRA's Goals

- To protect human health and the environment.
- To conserve energy and natural resources.
- To reduce waste.
- To ensure environmentally sound waste management.

RCRA continues to evolve as Congress amends the statute to reflect changing needs. Amendments to RCRA have occurred several times since 1976, most significantly in 1984. The 1984 amendments, called the Hazardous and Solid Waste Amendments (HSWA), significantly expanded the scope and requirements of RCRA.

Subtitle C of RCRA establishes a program to manage hazardous waste from cradle-to-grave and ensure that hazardous waste management protects human health and the environment. EPA established regulations under Subtitle C regarding the generation, transportation, treatment, storage and disposal of

ED_002087_00000765-00009

hazardous waste. See [HYPERLINK "http://www.ecfr.gov/cgi-bin/text-idx?SID=14a00e2c49234b2743ed943a48994598&mc=true&tpl=/ecfrbrowse/Title40/40CIsubchapI.tpl"], parts 261-267 and parts 268-270, for these regulations.[1]

State authorization is a rulemaking process in which EPA delegates the primary responsibility of implementing RCRA to individual states. This process ensures national consistency and minimum standards while providing flexibility to states in implementing rules. Currently, 50 states and territories have the authority to implement the base, or initial, program. Many states also have the authority to implement additional parts of the RCRA program, such as corrective action. State RCRA programs must be at least as stringent as the federal requirements, but states can adopt requirements that are more stringent.

The Subtitle C program first identifies which solid wastes are hazardous and then establishes requirements for the three categories of hazardous waste handlers: (1) generators; (2) transporters; and (3) owners/operators of treatment, storage and disposal (TSD) facilities. This manual applies only to TSD facilities, and the term "facilities" refers only to TSD facilities. The Subtitle C regulations set technical standards for the design and safe operation of hazardous waste facilities. These standards ensure the proper management of hazardous waste in order to minimize the release of hazardous waste into the environment.

RCRA regulations serve as the basis for developing and issuing, or denying, permits to each facility. Issuing permits is essential to the Subtitle C regulatory program because that is how the regulatory agency applies the technical standards to facilities.

RCRA also requires owners/operators of RCRA facilities to clean up contamination resulting from present and past practices, including practices of previous facility owners/operators. These cleanup activities are called corrective action. HSWA significantly expanded EPA's authority to initiate corrective action at RCRA facilities.

Section 3005(c)(3) of RCRA (codified at 40 CFR § 270.32(b)(2)) requires that each hazardous waste facility permit contain the terms and conditions necessary to protect human health and the environment. This provision is commonly called the "omnibus authority" or "omnibus provision," and it is the way in which additional site-specific permit conditions may be incorporated into RCRA permits if these conditions are necessary to protect human health and the environment. Communities can leverage this omnibus authority through public participation to influence needed community protections.

For information on many aspects of RCRA implementation, visit EPA's [HYPERLINK "https://www.epa.gov/rcra"]. Detailed information on specific RCRA topics (for example, Corrective Action, Permits and Interim Status, and Modifications) is available through [HYPERLINK "https://www.epa.gov/rcra/resource-conservation-and-recovery-act-rcra-training-modules"].

[1] 1 It is important to note the difference between how "meaningful involvement" with indigenous populations is used in the EJ context and as discussed in the [HYPERLINK "https://www.epa.gov/sites/production/files/2013-08/documents/cons-and-coord-with-indian-tribes-policy.pdf"]. The federal government has a unique government-to-government relationship with federally recognized tribes, which arises from Indian treaties, statutes, Executive Orders, and the historical relations between the United States and Indian Nations. The federal government has a trust responsibility to federally recognized tribes. Part of this responsibility includes consulting with tribes and considering their interests when taking action that may affect them or their resources.

ED_002087_00000765-00010

Evolution of RCRA Public Participation

Section 7004(b) of RCRA and EPA's permitting regulations, found at 40 CFR parts 124 and 270, form the foundation for mandatory public participation activities during the RCRA permitting process. The following chapters explain in more detail how EPA's RCRA regulations provide for public participation at all hazardous waste management facilities throughout the RCRA process, including before the permit application, through the permitting process, and during the permit's life.

Some community members, other groups and EPA initially were concerned that formal public participation began too late in the permitting process and that RCRA permitting information was not always accessible. In response to concerns, EPA expanded RCRA public participation requirements in December 1995 with the [HYPERLINK "http://www.gpo.gov/fdsys/pkg/FR-1995-12-11/pdf/95-29896.pdf"]. This new rule required public involvement earlier in the permitting process, expanded public notice for significant events and enhanced the exchange of permitting information. These regulations highlight EPA's support for strengthening the link between RCRA facilities and their host communities.

EPA also took steps to ensure fair public participation in the RCRA permitting process. For example, EPA Assistant Administrator Elliot Laws issued a memorandum to EPA Regional Administrators in December 1995, stating the Agency's policy to ensure equal access to permitting information and to provide an equal opportunity for all community members to be involved in the RCRA permitting process.

Addressing Environmental Justice in Public Participation

EPA's approach to public participation evolved to incorporate guidance on addressing environmental justice (EJ) concerns. In 1993, EPA established the National Environmental Justice Advisory Council (NEJAC) to provide independent advice and recommendations to the EPA Administrator on EJ issues. In 1994, President Clinton issued Executive Order 12898, [HYPERLINK "http://epa.gov/environmentaljustice/resources/policy/exec_order_12898.pdf"]. Section 1-101 of this order directed each federal agency to "make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority populations and low-income populations." Section 1-103 directed each federal agency to "develop an agency-wide environmental justice strategy."

To implement Executive Order 12898, EPA issued a memorandum in 1994 entitled [HYPERLINK "http://nepis.epa.gov/Exe/ZyNET.exe/91015AV6.TXT?ZyActionD=ZyDocument&Client=EPA&Index=1991+Thru+1994&Docs=&Query=&Time=&EndTime=&SearchMethod=1&TocRestrict=n&Toc=&TocEntry=&QField=&QFieldYear=&QFieldMonth=&QFieldDay=&IntQFieldOp=0&ExtQFieldOp=0&XmlQuery=&File=D%3A%5Czyfiles%5CIndex%20Data%5C91thru94%5CTxt%5C00000027%5C91015AV6.txt&User=ANONYMOUS&Password=anonymous&SortMethod=h%7C-&MaximumDocuments=1&FuzzyDegree=0&ImageQuality=r75g8/r75g8/x150y150g16/i425&Display=p%7Cf&DefSeekPage=x&SearchBack=ZyActionL&Back=ZyActionS&BackDesc=Results%20page&MaximumPages=1&ZyEntry=1&SeekPage=x&ZyPURL"]. This memo stated that, "to the extent practicable, staff should evaluate the ecological, human health (taking into account subsistence patterns and sensitive populations) and socio-economic impacts of the proposed decision-document in minority and low-income communities." It also emphasized that "at all critical stages of development, there should be meaningful input from stakeholders, including members of the environmental justice community and members of the regulated community."

In 1996, the NEJAC published [HYPERLINK "https://nepis.epa.gov/Exe/ZyNET.exe/500003KG.txt?ZyActionD=ZyDocument&Client=EPA&Index=19

95%20Thru%201999&Docs=&Query=&Time=&EndTime=&SearchMethod=1&TocRestrict=n&Toc=&TocEntry=&QField=&QFieldYear=&QFieldMonth=&QFieldDay=&UseQField=&IntQFieldOp=0&ExtQFieldOp=0&XmlQuery=&File=D%3A%5CZYFILES%5CINDEX%20DATA%5C95THRU99%5CTXT%5C00000006%5C500003KG.txt&User=ANONYMOUS&Password=anonymous&SortMethod=h%7C-&MaximumDocuments=1&FuzzyDegree=0&ImageQuality=r75g8/r75g8/x150y150g16/i425&Display=hpfr&DefSeekPage=x&SearchBack=ZyActionL&Back=ZyActionS&BackDesc=Results%20page&MaximumPages=1&ZyEntry=1"]The 2013 update to the model plan, [HYPERLINK "https://www.epa.gov/sites/production/files/2015-02/documents/recommendations-model-guide-pp-2013.pdf"], recognizes barriers and challenges common to communities with EJ concerns, such as:

- availability of resources, including funding and staff to conduct the needed activities over the long term;
- poor or little coordination among and between various federal, state, tribal and local government agencies and other entities;
- language and cultural differences;
- identification of and coalition building among local leadership within a community;
- lack of cultural competency among agencies trying to conduct community engagement;
- lack of recognition among communities and individuals of their stakeholder status in EJ issues; and
- lack of trust between community members, regulatory agencies and regulated industries.

In *Model Guidelines for Public Participation*, the NEJAC concluded that conducting effective EJ public participation requires an approach that is "tailored to the specific, unique needs of the particular community where activities are currently in the process of implementation." Section 3 of the document offers recommendations for how EPA can work with EJ stakeholders to develop an effective community engagement approach. Appendix C of that document includes a 34-step *Environmental Justice Public Participation Checklist for Government Agencies*.

In 2000, EPA's Office of General Counsel issued a memorandum on [HYPERLINK "https://www.epa.gov/environmentaljustice/epa-statutory-and-regulatory-authorities-under-which-environmental-justice"], which analyzed opportunities for addressing EJ issues under several EPA permitting processes, including RCRA. In this memorandum, EPA voiced its commitment to addressing EJ concerns and pointed to legal provisions that allow the agency to address such concerns in the RCRA permitting processes.

The EPA's Agency-Wide Public Involvement Policy

In 2003, EPA adopted a Public Involvement Policy that affirmed the Agency's approach to involving communities in actions that affect them. The policy outlines seven steps:

Public input can help the Agency and the permittee make better technical decisions.

1. **Plan and budget:** Planning community engagement activities and adequately budgeting resources, such as time, money, and in-kind efforts, can help ensure an effective public involvement process. Early planning typically helps get these activities and processes moving, for both EPA and the public.
2. **Identify whom to involve:** The most important part of the public involvement process is the early identification of the interested and affected public. This step enables EPA to have direct

exchanges of information, feedback and involvement with communities that Agency decisions affect.

3. **Consider providing technical or financial assistance:** Providing technical and financial assistance helps communities navigate complex scientific issues, data and documents. Many individual stakeholders cannot effectively take part in a dialogue about difficult environmental decisions because they do not have the resources to research the issues, understand the effects and results of possible decisions, or feel comfortable expressing their opinions in a public forum.
4. **Provide information and conduct outreach:** Offering information and outreach opportunities frequently and in accessible places, including online, helps communities to contribute effectively to EPA decision-making processes.
5. **Consult with and involve the public early and often:** Giving the public an opportunity to communicate their concerns, problems and alternatives can improve the Agency's decisions and environmental outcomes. A public participation practitioner should seek every opportunity to expand and diversify public consultation and involvement processes.
6. **Review and use public input and provide feedback:** Reviewing and using comments from the public and providing feedback supports the process and confirms EPA's constructive use of feedback to those who contributed ideas.
7. **Evaluate public participation activities:** Getting feedback from the public on how well a specific public participation activity or overall process, including meetings, notices of action, and rulemakings, worked can help the agency modify and improve those processes and activities. This manual incorporates the many valuable lessons and practices learned through EPA's community engagement and public participation, including the *Model Guidelines for Public Participation, the Community Engagement Initiative*, and onsite experience.

ED_002087_00000765-00013

CHAPTER 2: BUILDING A FOUNDATION FOR SUCCESSFUL PUBLIC PARTICIPATION

Faith-Based and Neighborhood Partnership Initiative

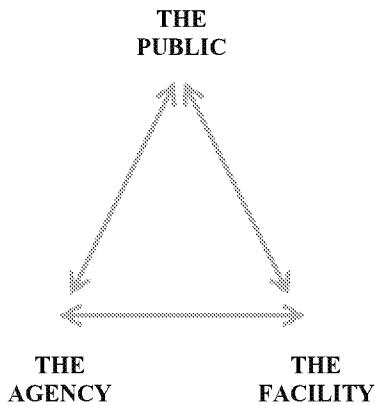
EPA joined the Faith-Based and Neighborhood Partnership Initiative, established by Executive Order 13498, to help promote interfaith dialogues and strengthen the role of community organizations. Through partnerships, EPA aims to connect similar faith-based and neighborhood organizations working on environmental projects with one another and build a network of communities in support of environmental literacy and stewardship. For example, in November 2015, EPA co-sponsored the Food Recovery Summit in South Carolina. The goal of EPA and the U.S. Department of Agriculture to cut wasted food in half by 2030 inspired this meeting, which included partners from all facets of the food system. Faith leaders worked with recycling and disposal organizations, federal agencies, universities, nonprofits, and other key stakeholders. This dialogue resulted in a "national call to action by stakeholders," which identifies areas of focus, opportunities, and demonstrated practices to meet this national goal.

This chapter explains some basic principles that often lead to successful public participation at RCRA facilities. A successful approach to public participation involves developing a clear definition of public participation along with guiding principles that promote trust, constructive dialogue, and exceptional teamwork; careful planning of public participation activities; and addressing several key considerations.

Definition and Description of Public Participation

Public participation plays an integral role in RCRA permitting and corrective action. The relationships between RCRA stakeholders can be represented as a triangle, with the agency, the facility owner/operator, and the public each forming a corner. Each of these stakeholders connects to the others through a line of communication. In the best-case scenario, the stakeholders interact well with each other, the lines of communication are strong between all parties, and information flows in both directions around the triangle, as shown in Exhibit 2-1. A good public participation program will create an inclusive dialogue, allowing agency staff, facility personnel and community members to talk openly and frankly with one another about RCRA-related issues and search for mutually agreeable solutions to differences.

Exhibit 2-1. The Public Participation Triangle



ED_002087_00000765-00014

Community Outreach

The permitting agency and RCRA facility should investigate the best ways to communicate with community members. Consider asking:

- **Which communication methods are most effective**? Community members may not have consistent access to electronic methods of communication. As a result, hard-copy and telephone communication may be critical to successful dissemination of information.
- **How do they receive local news?** Sources of local news could include: newspapers, radio stations, social media, direct mailings to homes, flyers in key public spaces such as a community business, or communication through churches, clergy or community organizations.

These key principles are a guide to the public participation process:

- **Be inclusive.** All interested stakeholders should be identified and invited to participate in RCRA processes. It is important to consider if there are hard-to-reach people in the community, such as people who may speak languages other than English or community members who may not trust the government because of legal status or other concerns. If the facility is in a community that is likely to have EJ concerns, additional efforts should be made to involve segments of the community that are not effectively reached by conventional approaches. If a facility affects tribal lands or any tribal members, tribal consultation is essential.[2]
- **Promote open and frequent communication, and practice active listening**. Public participation must start with a constructive dialogue between stakeholders. Permitting agencies and facility owner/operators should learn about the community's need for information and its preferred communication styles and methods. It is best to ask open-ended questions that encourage people to share information and express their concerns. Active two-way communication creates feedback loops that enable the Agency and the facility to monitor public interest or concern, adjust public participation activities, and respond quickly and effectively to changing needs.
- **Be honest, open and transparent.** Being honest and open is the best way to promote trust and credibility among stakeholders. By sharing information with community members and creating open and reliable lines of communication, the permitting agency and facility can create trust and cooperation that allows public debate to focus on environmental and economic impacts.
- **Be available, accessible and responsive.** The permitting agency and facility should be prepared to anticipate and respond to the community's concerns, fears and points of confusion. The permitting agency and facility should respond to questions and concerns quickly, which helps build the community's trust and confidence in EPA. If time is required to respond to a community member's request, explain when someone can provide an answer, and always follow up as promised.

---

[2] It is important to note the difference between how "meaningful involvement" with indigenous populations is used in the EJ context and as discussed in the [HYPERLINK "https://www.epa.gov/sites/production/files/2013-08/documents/cons-and-coord-with-indian-tribes-policy.pdf"]. The federal government has a unique government-to-government relationship with federally recognized tribes, which arises from Indian treaties, statutes, Executive Orders, and the historical relations between the United States and Indian Nations. The federal government has a trust responsibility to federally recognized tribes. Part of this responsibility includes consulting with tribes and considering their interests when taking action that may affect them or their resources.

- **Promote understanding and interaction between stakeholders.** While each stakeholder shares responsibility for maintaining open and two-way communication, stakeholders' backgrounds, concerns and roles in the RCRA process differ substantially. All participants should acknowledge and account for these differences as they approach the RCRA process.
- **Help the community understand and participate meaningfully in RCRA processes.** The community will best participate in the RCRA process if it understands the process, environmental issues, health issues, and proposed facility changes, and if it is familiar with and has access to available participation tools. This access may require planning additional outreach activities, enabling community access to an independent facilitator or mediator to help resolve differences within a community or between the agency and a community, or providing technical assistance. [HYPERLINK "http://rcrainfo.epa.gov/"] is a data tool available to EPA employees, as well as state, tribal, and territorial environmental agencies that can educate the public on RCRA facilities. The public can find data on RCRA facilities through EPA's [HYPERLINK "https://www.epa.gov/cleanups/cleanups-my-community"], [HYPERLINK "https://rcrainfo.epa.gov/rcrainfoweb/action/main-menu/view"], and [HYPERLINK "http://www.epa.gov/enviro/index.html"].

Public participation should encourage "feedback loops," or active, two-way communication.

- **Start public participation early.** A good public participation effort involves the public early in the process and addresses public concerns before initial decisions. Early activity can set the tone for the permitting process and the entire life of the facility, and ensure cooperation between stakeholders. Not only does early communication give stakeholders time to develop suggestions and concerns, it also brings issues to the surface at the beginning of the RCRA process when it may be more feasible to address them.
- **Tailor public participation approaches and activities to community needs.** It is worthwhile to understand community needs before planning community involvement and outreach activities. Permitting agencies and facilities should be creative when designing or implementing effective activities to ensure that they meet the community's needs.

ED_002087_00000765-00016

- **Encourage community members to be active and informed.** Individuals who wish to be involved in the RCRA process should make early contact with designated contact persons at the permitting agency. They should conduct research on the process and facility, join relevant mailing lists, visit the facility's website, advise the permitting agency and facility on the public participation methods that best suit the community, submit written comments, participate in public hearings and meetings, and follow the RCRA process closely. Permitting agencies and facilities should provide outreach that both invites and provides necessary information to community members so they can participate in the process.

Successful public participation requires careful planning and consideration.

Alternative Dispute Resolution

Agency Sponsored Program: The [HYPERLINK "https://www.epa.gov/adr/alternative-dispute-resolution-epa"], which is part of EPA's Office of General Counsel, is responsible for providing legal advice and counsel regarding the use of alternative dispute resolutions (ADR). In instances where negotiations are not progressing, mediation can often help the parties reach a mutually agreeable outcome. The mediator is neutral, has no decision-making authority, and helps parties clarify issues, explore settlement options, and evaluate how best to advance their respective interests.

Planning for Successful Public Participation

EPA strongly recommends creating public participation plans for RCRA facilities, although they are not required. The permitting agency typically creates these plans, which outline a community-specific framework for public participation throughout a RCRA permitting or corrective action process. Depending on the type of permitting activity, the level of public interest, and the facility's location, the level of complexity for public participation plans can range from a simple, two-page schedule of activities to a comprehensive population study, possibly an EJ assessment, a permitting activities itinerary, and an analysis of community concerns. It can take from several days to several weeks to design and develop a public participation plan.

A public participation plan begins by assessing the level of community interest and the types and prevalence of community concerns about RCRA facilities. The permitting agency should base the plan on a variety of sources, possibly including community interviews, file searches, reviews of past media coverage, and community assessments completed by third parties. It should discuss planned activities with the facility owner/operator and work with community representatives to determine the information channels that best suit the area. It also is a good idea to consider whether the community faces the presence of numerous environmental burdens in addition to the RCRA facility. Many times these communities may also suffer disparities in health conditions compared to other communities.

Exhibit 2-2 provides a guide for determining whether public interest in a facility is likely to be low, medium, or high.

Exhibit 2-2. Determining the Likely Level of Public Interest in a RCRA Facility

LEVEL OF PUBLIC INTEREST	TYPE OF RCRA ACTION	COMMUNITY'S RELATIONSHIP WITH FACILITY / AGENCY	LARGER CONTEXT
Low	• The RCRA activity is unlikely to be controversial (e.g., a routine permit modification). • There is no contamination at the facility that could come into direct contact with the public.	• People do not live near the facility. • There is a history of good relations between the facility and community members. • Community members have expressed confidence in the agency and/or facility.	• The facility receives very little media attention and is not a political issue. • Community members have not shown any past interest in hazardous waste issues. • Public meetings on the permit modifications have not been attended.
Moderate	• The RCRA action may involve activities that contribute to a public perception that the facility is not operating safely. • Examples may include permits for storage and on-site activities or routine corrective actions. • Highly toxic and/or carcinogenic waste may be involved (e.g., dioxins).	• A large number of people live near the facility. • There is a history of mediocre relations between the facility and community members. • The facility is important to the community economically, and the action may affect facility operations. • Community members have had little or poor contact with the agency. • Local elected officials have expressed concern about the facility.	• Community members have shown concern about hazardous waste issues in the past. • The facility receives some media attention, and there are organized environmental groups interested in the action. • There are other RCRA facilities or CERCLA sites in the area that have raised interest or concern.

LEVEL OF PUBLIC INTEREST	TYPE OF RCRA ACTION	COMMUNITY'S RELATIONSHIP WITH FACILITY / AGENCY	LARGER CONTEXT
High	• The RCRA action includes a controversial technology or is high profile for other reasons (e.g., media attention). • Highly toxic and/or highly carcinogenic waste is involved (e.g., dioxins). • There is potential for release of hazardous substances or constituents that pose potential harm to the community and the environment. • There is direct or potential community contact with contamination from the facility (e.g., contaminated drinking water wells or recreational lake).	• The nearest community population is within a one-mile radius. • A large number of people live near the facility. • There is a history of poor relations between the facility and the community. • The facility has violated regulations and community members have little confidence in the agency to prevent future violations. • There is organized community opposition to the facility's hazardous waste management practices or to the action. • Outside groups, such as national environmental organizations, or state or federal elected officials have expressed concern about the facility or action. • The economy of the area is tied to the facility's operations.	• Community members have shown concern about hazardous waste issues in the past. • Facility activities are covered widely in the media. • There is interest in the facility as a political issue, at the local, state, or federal level (e.g., statewide or national environmental groups are interested in the regulatory action). • There are other issues of importance to community members that could affect the RCRA action (e.g., concern over a cancer cluster near an area where a facility is applying for a permit to operate an incinerator). • There are other RCRA facilities or CERCLA sites nearby that have been controversial.

The permitting agency can then propose activities for involving the community in the RCRA process. (See Chapter 5 for the information to include in a public participation plan.)

Steps in Gathering Information, Planning, and Evaluating Facilities

Step 1: Review the RCRA action.

- Determine whether the action is likely to be controversial.

Step 2: Talk to colleagues who have worked in the community about their interactions with the public.

- Has there been a large degree of public interest or concern about other projects? Has the public shown confidence in the regulatory agency?

Step 3: Review the Agency's and other sources' files on the facility.

- Note if there are inquiries from the public or organized groups, and the level of concern they convey. Research media coverage and community discussions in newspapers, blogs, websites, social media, and other sources.

Step 4: Formulate a preliminary impression of the community based on this information.

Step 5: Talk with several key community leaders to confirm or challenge this impression.

Step 6: Determine the anticipated level of community interest based on this information.

Low interest: Go to Step 7.

Moderate interest: Conduct additional community interviews with at least one member of each community subgroup.

High interest: Conduct a full set of community assessment interviews.

Step 7: Write a summary of any major concerns or issues.

The permitting agency should prepare the public participation plan at the beginning of the RCRA process. However, these plans should be evolving documents. Public participation plans should be revised after significant changes in community concerns or activities at the facility and at least every two years for longer-term activities. These revisions should incorporate new information, reflect changes in community concerns, and evaluate whether public participation activities to date have been effective. By creating a strong plan for public participation, the permitting agency can demonstrate a commitment to active community involvement and a workable framework for future outreach.

The Community Member's Role

Community members are encouraged to take an active role in the RCRA public participation process via formal and informal activities so they can learn about and provide input on hazardous waste activities in their communities. Individuals may want to assess the permitting situation, the agency or agencies involved, and the facility owner/operator. They can conduct this type of assessment using a variety of methods, including obtaining background information on a permitting issue from local officials, contacting research or industrial organizations, reading materials from the permitting agency, and interacting with interested community groups.

ED_002087_00000765-00020

Community members can take part in the community assessment process by commenting on the proposed decision, participating in community interviews or focus groups, or through other methods. They also can contact the permitting agency or the facility—outside of any formal activity—to give early input and share their concerns. They can suggest public participation activities, meeting locations, or means of communication that will work well in their community. This input, communicated via telephone call, email, or interview, can be very helpful, especially in establishing a public participation plan. Individuals may contact other community groups that have an interest in the RCRA activity. Environmental, public interest and civic organizations can provide individuals the opportunity to participate in efforts to influence the process through mutual understanding.

Meaningful Community Involvement in South Carolina

South Carolina's Department of Health and Environmental Control (SC DHEC), a rural community, and an out-of-state company wishing to build a facility in the small town worked together to create a winning situation.

The company planned to build on a beautiful piece of property that included an old house and a small grove of old pecan trees in a rural South Carolina community. SC DHEC's staff spoke with community residents and conveyed to the company that the community was not happy about the company coming to town or the loss of their beloved trees, which held a lot of value, memories, and identity for the dwindling rural community.

SC DHEC and the company jointly hosted two public meetings and met with individual community members to discuss concerns. After hearing and understanding the community concerns, the company decided to make a few minor changes to the design and layout of the facility to preserve the pecan trees.

Public participation has paid off for all. SC DHEC's public participation and permitting staff worked in parallel processes to address the community's concerns without delaying construction of the facility. The company understood the value of addressing the community's concerns by going beyond the regulatory requirements for public participation, and the community felt valued throughout the permitting process. This dialogue continues beyond the permitting process. During pecan season, the company hosts a community open house to connect, learn about the manufacturing process, and of course, gather pecans.

Alternatively, community members may decide to create new organizations to discuss issues or provide input into the process. Here are some steps that community members can take to be active and informed participants in RCRA processes:

- **Contact the permitting agency early**. Identify the designated contact person for the project, whose name should be on fact sheets and notices or available from the agency. Learn about the timing of any permit renewals or any upcoming or impending interim actions that may impact the community.
- **Perform an assessment**. Request background information from the permitting agency, local officials and the facility owners/operators. Ask about day-to-day activities, the decision-making structure and current policies and procedures; inquire about how the proposed activity fits into larger political issues, local planning and the facility's business plans. Request information that may open up additional solutions, including pollution prevention approaches that may reduce the amount of waste the facility manages.

ED_002087_00000765-00021

- **Sign up** for the facility mailing list for notices, fact sheets and other agency documents. Join mailing lists maintained by involved environmental, public interest, tribal and civic organizations.
- **Visit online resources** such as [HYPERLINK "https://www3.epa.gov/enviro/"], [HYPERLINK "http://www.epa.gov/myenvironment/"]_or [HYPERLINK "https://www.epa.gov/ejscreen"] to learn more about environmental health in the community.
- **Look** for zoning signs or other announcements in the newspaper or other media.
- **Communicate** to the permitting agency, the facility owner/operator and other involved groups what types of public participation activities will be most useful for the community. Inform them about the most consulted communication channels in your area (e.g., which social media sites, newspapers, and radio stations are most popular); the best locations for information repositories and public meetings; and other community information needs (e.g., multilingual publications).
- **Submit written comments** that are clear, concise and well documented. By law, permitting agencies must consider all significant written comments submitted during a formal comment period. See [HYPERLINK "https://www.epa.gov/sites/production/files/2014-04/documents/making-your-voice-heard.pdf"] for step-by-step instructions for writing effective public comments.
- **Participate in public hearings and other meetings**, and provide oral testimony that supports your position. A public hearing is not required unless someone requests one in writing.
- **Request an informational meeting and/or conference call with the permitting agency or the appropriate organization, such as the RCRA Hazardous Waste program** if any material needs further explanation, if details about the facility need clarification, or if there are concerns about the process.
- **Follow the process closely**. Watch for Agency decisions and review its responses to public comments. Individuals may have an opportunity to appeal Agency decisions.
- **Register to receive site updates.** Sign up to receive updates from the hazardous waste management facility about upcoming events, site tours, site update mailers and newsletters.
- **Sponsor a talk, listening session or workshop** with the regulatory agency's community engagement staff and technical project manager to build community understanding and capacity.
- **Weigh in on the prioritization of solid waste management units (SWMUs),** such as providing input on the sequence in which an order may require the order of the Corrective Measures Studies.
- **Help the regulatory agency and/or facility gain residential property access agreements** for investigating and sampling off-site areas for potential hazardous waste (HW) or HW constituents.
- **Remember that interest and input from community members are both important to the Agency and other concerned stakeholders.**

Speaking the Language of the Community

The University of Minnesota embarked on a project to upgrade its boilers by converting from coal to natural gas. It also combined heat and power to add electricity generation to the function of the boilers. The neighborhoods surrounding the University are very diverse, and include housing from luxury condominiums to public housing. A high percentage of area residents are non-native English speakers, recent immigrants, people of low-income communities, and other minorities.

The Minnesota Pollution Control Agency (MPCA) took steps to identify and address barriers to meaningful public participation in the permitting process for this diverse and densely populated area. The MPCA used EPA's EJ View tool (which since has been replaced by EPA's EJSCREEN tool) to improve its understanding of community characteristics, and held the public meeting in a public housing complex near the facility. It provided written translations of project summaries into Somali and Oromo, two of the most commonly spoken languages in the community. MPCA also translated the public meeting announcement into Spanish and provided simultaneous oral translation and interpretation at public meetings.

Key Considerations When Planning Public Participation

The permitting agency and facility should keep these overarching themes in mind when planning and conducting public participation activities and outreach:

- communicating risk effectively;
- assessing and addressing EJ, cultural, and tribal concerns;
- supporting community-based environmental protection;
- assessing and responding to technical assistance needs;
- coordinating and collaborating with EPA programs;
- using traditional and new media effectively;
- planning for public participation when resources are limited; and
- evaluating public participation activities.

Communicating Risk Effectively

Public participation activities usually involve some form of risk communication. The permitting agency and facility should strive to ensure that they always take the principles of effective risk communication into consideration. Risk communication involves a conversation between the permitting agency or facility and the community, and it should be a genuine and sincere exchange that conveys important information, responds to public concerns, and identifies mutual solutions. Public input often provides technical staff with information that they can use to better account for local circumstances in permitting and corrective action decisions. The RCRA requirements for public participation help reduce risk more effectively by ensuring a meaningful exchange of information between all stakeholders.

Effective risk communication should:

- Help community members learn more about and understand the Agency's risk assessment and risk management processes and decisions, including whether conducting a site-specific risk assessment in their community is an appropriate activity.

ED_002087_00000765-00023

- Help the Agency understand the community's concerns and the factors that affect their perception of risk related to the site.
- Increase mutual trust and credibility to provide community members an opportunity to participate in decision-making about community risk management.

Considering Multiple and Cumulative Effects

Some communities may suffer from numerous environmental quality issues, including issues not associated with the RCRA facility. These communities may also suffer inequalities in health conditions. Public participation is particularly important when engaging with communities that are experiencing cumulative environmental and health impacts.

Effectively communicating information on site-related hazards and risks is a multi-step process that usually includes:

- identifying and understanding the audience;
- developing clear and informative messages with an understanding of, and respect for, the audience's concerns and perception of site-related risks;
- selecting appropriate communication methods to deliver those messages; and
- understanding that an effective risk communication process enables mutual understanding of risk-related concerns but does not guarantee consensus.

Kettleman Hills Chemical Waste Management Site, Kettleman City, California

Kettleman City, California

In 2008, the Kettleman City community in the California Central Valley raised concerns that wind-blown polychlorinated biphenyl (PCB) particles from Chemical Waste Management (CWM) facility operations could either be deposited off-site and taken up into the food chain, or migrate as air emissions and adversely impact the community. In response to those concerns, EPA requested and CWM completed a PCB study to assess possible off-site impacts that PCB disposal operations at the CWM facility may present to human health or the environment. This was the first time a scientific study of this magnitude was conducted at a Toxic Substances Control Act (TSCA) regulated PCB storage and disposal facility as part of a permitting process. The company translated the results of the study into Spanish, and presented them to the community in written format, as well as at public hearings and workshops.

ED_002087_00000765-00024

Assessing and Addressing Environmental Justice, Cultural, and Tribal Concerns

EPA defines environmental justice as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies."[3]

- **Fair treatment** means that no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental and commercial operations or programs and policies.[4] EPA has expanded the concept of fair treatment to include not only the consideration of how burdens are distributed across all populations, but also how benefits are distributed.
- **Meaningful involvement** means that potentially affected community members have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and/or health; and the public's contribution can influence the regulatory agency's decision. It also means that the concerns of all participants involved will be considered in the decision-making process, and that the decision-makers seek out and facilitate the involvement of those potentially affected.

To integrate EPA's definition of environmental justice into practice, the Agency identified these best practices:

- **Identifying communities with potential EJ concerns:** Some communities affected by RCRA facilities are lower income, higher minority or indigenous, or more burdened by other environmental stressors compared to the general population. Facilities and agencies should assess whether there are EJ concerns at a site because they may provide important information for cleanup and public participation purposes.

  EPA's [HYPERLINK "https://www.epa.gov/environmentaljustice/guidance-considering-environmental-justice-during-development-action"] released in May 2015, outlines several factors

Using EPA'S EJSCREEN Tool

[HYPERLINK "http://www2.epa.gov/ejscreen"] is an environmental justice screening tool that EPA uses to highlight places that may warrant further review, analysis, or outreach for environmental justice concerns. The EJSCREEN tool offers a variety of powerful mapping capabilities that make it easy for users to access environmental and demographic information. EPA developed EJSCREEN to assist in meeting environmental justice goals consistent with [HYPERLINK "http://www2.epa.gov/laws-regulations/summary-executive-order-12898-federal-actions-address-environmental-justice"] and the goals of [HYPERLINK "https://www.epa.gov/environmentaljustice/plan-ej-2014"]

EJSCREEN can help agencies identify areas with potential EJ concerns by showing demographics and information on a variety of environmental factors that contribute to a community's environmental burden. Agencies also should consider information from other sources. For example, health information related to asthma and cancer may be available from other sources and imported into EJSCREEN. EJSCREEN is only a first step and cannot be the basis of agency decision-making. Local knowledge and information will always be essential for an accurate assessment of a location or community.

[3] U.S. EPA. [HYPERLINK "https://www.epa.gov/environmentaljustice/plan-ej-2014"], Office of Environmental Justice, September 2011, p. 3.

[4] Ibid.

to help assess whether a community may have EJ concerns, including proximity to environmental hazards; susceptible populations; unique exposure pathways; multiple and cumulative effects; ability to participate in the decision-making process; and physical infrastructure.

Agencies should consider using EPA's [HYPERLINK "https://www.epa.gov/ejscreen"] tool to assess places where EJ concerns may warrant greater consideration and should then consider collecting relevant data to help identify communities with potential EJ concerns. Relevant data may include demographic data (e.g., ethnicity/race/culture, education, languages spoken, income), relevant health information (e.g., chronic lung and or cardiovascular issue rates, nutrition status), and additional environmental burdens (e.g., toxic releases, air pollution, water quality and location of dischargers) in affected regions or populations.

RCRA permitting and corrective action decisions should take sensitive sub-populations and unique exposure pathways from site contamination into account. The facility and the permitting agency should share demographic information, and information about potential environmental factors that affect the community in a timely manner. This will help ensure that the risk assessment or other site analyses or decisions consider these factors.

- **Planning and implementing enhanced public participation opportunities:** Potential EJ concerns should be considered when planning and conducting public participation activities. For sites that affect indigenous peoples, the permitting agency should consult with tribal leaders and environmental officials to discuss sacred sites, cultural significance and other concerns.

  The permitting agency also should consider tailoring public participation approaches to reach out more effectively to specific populations. Examples include using translation or interpretation services; providing multilingual fact sheets and other information; partnering with community groups or community leaders; and using non-traditional media outlets for outreach. Agencies also can consider identifying non-government locations to hold public meetings; scheduling public participation activities at times other than during subsistence fishing, hunting or agricultural seasons; and continuing to distribute paper copies of outreach materials when community members lack access to electronic forms of communication.

Agencies also should consult with their [HYPERLINK "https://www.epa.gov/environmentaljustice/environmental-justice-your-community"] and [HYPERLINK "https://www.epa.gov/tribal/tribal-program-managers"], and work with state, local and tribal governments to determine whether those governments can offer assistance or insights into how to meet the special needs of a community with EJ concerns.

Policy on Tribal Environmental Justice and Trial Consultation

It is important to note the difference between meaningful involvement with indigenous peoples and government-to-government consultation with tribes. [HYPERLINK "https://www.epa.gov/environmentaljustice/epa-policy-environmental-justice-working-federally-recognized-tribes-and"] discusses meaningful involvement of indigenous peoples throughout the United States and others living in Indian country.

[HYPERLINK "https://www.epa.gov/tribal/epa-policy-consultation-and-coordination-indian-tribes"] discusses EPA's responsibilities to work government-to-government with federally recognized tribes. The federal government has a unique government-to-government relationship with federally recognized tribes, which arises from Indian treaties, statutes, executive orders, and the historical relations between the U.S. and Indian Nations. The federal government has a trust responsibility to federally recognized tribes. Part of this responsibility includes consulting with tribes and considering their interests when taking actions that may affect them or their resources.

Visit EPA's [HYPERLINK "https://www.epa.gov/tribal"] website for information related to working with tribes and tribal consultation.

Supporting Community-Based Environmental Protection

In 1995, EPA's OSWER released an action plan that endorsed community-based environmental protection (CBEP). CBEP is a method of solving environmental problems in the context of the community in which they occur. The action plan points to CBEP as a method that "brings the government closer to the people it is meant to serve," and it also heralds CBEP as "a new way of accomplishing traditional tasks in a more effective, more responsive manner."

Stakeholder involvement is one of the keys to CBEP. This plan points to CBEP efforts as ones that "must empower and equip the community to participate in environmental decisions, taking into account not only the human but also the ecological and socioeconomic health of a place." In this way, involvement and cooperation of the community, facility owners/operators, and agency personnel in the permitting process will fuel CBEP efforts. Increased access to information and opportunities for participation in the permitting and corrective action processes, such as those in the RCRA Expanded Public Participation Rule, will empower communities and enable them to practice CBEP.

EPA encourages permitting agencies and facility owners/operators to promote a CBEP approach by discussing RCRA issues in coordination with other environmental concerns. Agency staff should be prepared to address RCRA concerns about air and water issues that may reach beyond a particular facility. Many companies are interested in finding opportunities to reduce process wastes through pollution prevention and recycling, and the impacts of these types of reductions could affect air, water or land. Several states are embarking on whole-facility approaches to permitting to take advantage of this approach. Permitting agencies should consider using fact sheets and availability sessions to explain RCRA's relationship to other programs. Combining public meetings across program lines may also make the entire environmental picture clearer to stakeholders.

Coordinating and Collaborating with EPA Programs and Other Agencies

ED_002087_00000765-00027

Permitting agencies benefit from acting collaboratively in communities. It may be helpful for the RCRA permitting agency to work with EPA programs to communicate consistently about community goals and messages. Cross-program coordination can help EPA better address community needs and goals, and more effectively communicate the environmental and public health benefits of EPA's work to affected communities.

The [HYPERLINK "https://semspub.epa.gov/work/11/100000070.pdf"] provides guidance for members of EPA Superfund site teams on how EPA plans and implements community involvement activities at Superfund sites. The Handbook provides valuable information for other stakeholders about agency public participation priorities, and it promotes the consistent implementation of community involvement regulations, policies and practices.

Former industrial site with underground storage tanks, Kewa Pueblo (previously known as Santo Domingo), New Mexico

Coordination with other federal programs: The cleanup and revitalization of Kewa Pueblo is an example of how cross-program coordination can help revitalize an area. With the help of EPA Region 6, the tribe identified potential funding sources from the National Park Service, the Indian Health Service, the U.S. Department of Housing and Urban Development, the Economic Development Administration, and the U.S. Department of Agriculture to redevelop the site into a mass transit stop on the New Mexico Rail Runner Express commuter line.

EPA programs and regions can learn from each other by sharing best practices, success stories and useful contacts. They can also share new tools, such as [HYPERLINK "https://geoplatform.gov/"] and Region 1's Community Action Tracker, which is a mapping, tracking and reporting system that is used as a model across EPA. Coordination can also sometimes lead to the development of new, innovative multimedia strategies.

Permitting agencies should be aware of other regulated hazardous waste facilities or environmental programs in the community that EPA or other federal, state or tribal agencies administer. They should also know about any other ongoing EPA, federal, state or tribal enforcement actions nearby that might affect community attitudes toward regulatory agencies.

Coordinating with Other Federal Agencies: ATSDR

The Agency for Toxic Substances and Disease Registry (ATSDR) has a strong partnership with EPA and the RCRA program. ATSDR is a federal public health agency of the U.S. Department of Health and Human Services based in Atlanta, Georgia.

EPA, states or individuals can ask ATSDR for help in evaluating and responding to public health issues at sites. These evaluations aim to find out if people are being exposed to hazardous substances and, if so, whether that exposure is harmful and should be stopped or reduced. For more information on the ATSDR health assessment process, go to [HYPERLINK "http://www.atsdr.cdc.gov/videos/health_assessment_process.htm"].

Community members are key participants in the public health assessment process, and effective communication is a critical part of fostering trusting relationships. The [HYPERLINK "http://www.atsdr.cdc.gov/communications-toolkit/index.html"] (ACT) provides customizable tools for simplifying communication, guidance on responding to different levels of concern, and a way to set realistic expectations and measure the usefulness of the public health assessment process. ATSDR, Centers for Disease Control and Prevention and EPA created and jointly sponsored a website called Community Action for Environmental Public Health, which contains tools, links, media and other resources to assist communities in answering environmental health questions.

Assessing and Responding to Technical Assistance Needs

Understanding the volume of technical information related to hazardous wastes can be a daunting task. By offering technical assistance to communities, facility owners/operators and EPA can help community members better understand technical issues related to RCRA permitting and corrective action. This can help them articulate their concerns and preferences during the decision-making process.

Because EPA has limited resources for RCRA technical assistance, agencies should consider whether they can offer community assistance through other EPA programs or non-EPA resources, such as non-governmental or other federal agencies, especially if the community has EJ concerns. Facilitation, mediation or other assistance available through the [HYPERLINK "http://www.epa.gov/adr/"] also may be helpful. If any of these programs may be appropriate, the permitting agency should consider meeting with the appropriate EPA contacts to discuss opportunities to provide assistance and to coordinate outreach and public participation activities.

Technical assistance services may be available to help communities with the following:

- Reviewing, interpreting and explaining RCRA decision documents.
- Reviewing, interpreting and explaining other technical and scientific reports.
- Providing information about basic science, environmental policy and related resources.
- Providing assistance to help communities understand health risks.
- Helping the community identify reasonably anticipated future land uses to inform corrective actions and understand how land use can influence remedies.
- Enhancing community and stakeholder involvement.
- Preparing outreach materials.
- Presenting educational programs on technical issues (e.g., safety and sustainability for individuals and families at home and in the community).

- Helping to resolve conflicts among stakeholders.

Facility owners/operators, external partners or the permitting agency can provide these technical assistance services. Communities should prioritize the technical assistance support they are seeking from facility owners/operators.

EMC's Middleport Facility, Middleport, New York

Technical assistance for community members: As with many RCRA sites, the Middleport site, a former pesticide formulation and packaging plant, created a community advisory group to encourage communication between government agencies and community members. The Middleport Community Input Group also benefited from access to an environmental scientist hired to review technical documents and explain complex issues to the group. Funding for the scientist was available through EPA's Technical Assistance Services for Communities (TASC) Program.

Conducting a Technical Assistance Needs Assessment

For most sites, the informal technical assistance provided directly by the facility or the Agency as part of the public participation effort will address the community's needs. However, whenever a community may have unmet needs for technical assistance, the Agency may consider conducting a Technical Assistance Needs Assessment (TANA). A TANA is a site-specific assessment to determine whether a community will benefit from additional support from EPA to help community members understand technical information. This assistance generally is provided through facility owners/operators or an external partner, such as a university or nonprofit organization. The TANA process recommends a blueprint for designing a coordinated effort to meet the community's needs for additional technical assistance while minimizing overlap in the services provided by the agency, facility and external partners.

The TANA process usually involves:

1. Interviewing community members to obtain their views on the ways in which the community is receiving technical information about a site and whether community members can readily understand the information.
2. Assessing whether additional forms of technical assistance may be appropriate to enable the community to understand and comment on facility-related technical information.
3. Identifying organizations in the community that are interested or involved in facility-related issues and that might provide an appropriate conduit for technical assistance services to the affected community.

Managing Community Expectations for Technical Assistance Resources

Preface any discussion of potential technical assistance or other resources with an explanation that availability of those services is contingent upon funding, and often also upon eligibility or other factors.

A TANA may be conducted at any time, but the best time to do so is early in the process, ideally concurrently with community interviews conducted for the development of a public participation plan. A TANA can take place later if the technical assistance needs of the community cannot be adequately defined at that time, or whenever it appears that the community may need additional technical assistance.

ED_002087_00000765-00030

Using the TANA to Identify Technical Assistance Services and Programs for Communities

Although EPA has not developed TANA guidance specific to RCRA, the [HYPERLINK "http://semspub.epa.gov/src/document/11/100000144"] includes information about conducting interviews for TANA and the types of technical assistance services for communities that may be helpful for RCRA facilities and permitting agencies. EPA can offer more formal technical assistance than an independent technical expert (and sometimes, a mediator or facilitator) provides, working with a community organization. This includes programs that:

- offer communities access to independent experts;
- provide neutral facilitation, mediation and dispute resolution services through an EPA Conflict Prevention and Resolution Services contract;
- collaborate with universities, colleges and nonprofit organizations to offer voluntary support to communities through EPA's new Partners in Technical Assistance Program (PTAP); and
- provide medical information and advice on environmental conditions that influence children's health through the [HYPERLINK "http://www.pehsu.net/"] (PEHSU), a network of specialists who respond to questions from public health professionals, clinicians, policy makers and the public about children's environmental health concerns.

Other Resources for Communities

Facilities should be familiar with other resources and information sources of potential interest to community members. EPA hosts a [HYPERLINK "https://www.epa.gov/communityhealth"], the [HYPERLINK "https://www.epa.gov/superfund/community-involvement-tools-and-resources"], published in 2016, as well as a website on [HYPERLINK "https://www.epa.gov/hwpermitting/resources-public-participation-hazardous-waste-permitting-and-corrective-action"] that may be helpful. Other governmental, tribal or non-governmental programs may be able to provide funding or support to affected communities if the goals of the RCRA action align with those of the program. Close coordination between EPA programs and other federal programs can also enable communities to leverage all available resources that might benefit them. Through increased internal coordination, EPA can often help communities access a range of EPA resources, including relevant grant opportunities, technical assistance and useful data. These efforts can facilitate community dialogue and engagement while empowering communities to take an active role in the RCRA process and in addressing other environmental issues that affect them.

Using Traditional and New Media Effectively

New technologies continue to change the ways people receive and share information. The rise of digital forms of communication—from websites and social media (e.g., Facebook, Twitter, Instagram and blogs), to text messaging, podcasts, videos and mobile phone apps—means that many people rely less on traditional media and often turn to new media as primary or supplemental sources of information.

Although working with traditional media remains important and is required by statute for RCRA facilities and permitting agencies, using new media will be part of an effective approach for reaching people affected by RCRA facilities. Social media may have the greatest effect on the success of public participation efforts at RCRA sites. Consider monitoring local Facebook, Twitter and other social media sites to understand what is happening in the community, stay abreast of facility-related community attitudes, and become aware of misinformation, rumors and inaccurate community reactions that could mislead the public. It also may be useful to develop a policy to engage social media if unclear information or misinformation is present in communities. Consider establishing a site-specific EPA website to assist with a community with a high level of public interest or where misinformation is circulating. An example of a RCRA site-specific website is from EPA Region 4: [HYPERLINK "http://www.epa.gov/grenadacleanup"].

Working with Traditional Media

Almost every RCRA facility generates interest in the traditional local news media. Since EPA often turns to local news media to disseminate information about site issues and activities, it is important to consider the role of the news media in public participation efforts.

The RCRA statute specifically requires the use of local newspapers and radio, but EPA strongly encourages facility owners/operators and permitting agencies to use new media well, and also to go beyond the minimum requirements, whenever possible. Permitting agencies and owners/operators should also understand the different needs of traditional radio, television and print media, as well as how new media, including online media outlets and social media, work. News releases should contain well-crafted messages tailored to each medium and their specific audiences.

To attract news media coverage, information about a local RCRA facility must be immediate in nature and relevant to the local audience. The facility is more likely to attract media coverage if the agency or owner/operator develops relationships with local reporters and editors, issues timely news releases and media advisories, makes staff members available to the media when events or issues are newsworthy, and earns the media's trust. The agency and facility should anticipate and respond to questions from the media in a timely fashion with reliable, up-to-date information.

Quick Response Codes

Utilizing Quick Response, also known as QR, codes on signs, posters, and other printed materials is a quick method to drive traffic to a website. Community members who have a smartphone app can scan the code and go directly to the information.

Working with Social Media

EPA uses the term social media to refer to web-based and mobile technologies that people use to share information and ideas online. EPA's policy is to use social media, where appropriate, to meet its mission of protecting human health and the environment. As EPA's social media policy evolves, new tools and technologies appear at an increasing rate. Social media policy also varies according to each EPA region. While EPA does not endorse any particular social media site or technique, information about tools such as Facebook, Twitter, blogs and discussion forums, YouTube, Flickr and many other applications are available on [HYPERLINK "https://www.epa.gov/web-policies-and-procedures/social-media-epa"] web page.

Permitting agencies and facility owners/operators should consider applying appropriate social media technologies to public participation work whenever possible in accordance with regional policies. Keep in mind that not everyone has easy access to a computer with broadband access, and not everyone with a computer or cell phone uses social media. More significantly, access to the Internet, smartphones and other devices that deliver social media is not universal. This is particularly important to consider when the affected community has EJ concerns, and when many community members have lower incomes or might lack access to new technologies.

Research and identify the best social media mechanism to reach the community members with whom you want to communicate. Local government and community organizations generally know which social media outreach tools they have used successfully to disseminate information within the community. Social media should not be used ***instead of*** traditional channels— its use should be ***in addition to*** traditional media. The use of social media sometimes represents an added opportunity for engagement with a growing audience of people expecting more transparency, faster communication and more access to information than ever before. In many cases, social media may be more effective at reaching communities with EJ concerns.

ED_002087_00000765-00032

Explore both traditional and new media when planning an outreach strategy. Examples of social media use at RCRA site include a [HYPERLINK "https://www.facebook.com/groups/284334294243/"]. You must log in to Facebook to access this page.

EPA staff should consult the Agency's social media policy and follow Agency procedures that are in line with EPA' s social media policies and procedures for using various forms of social media. A standard policy for all of EPA is available at [HYPERLINK "https://www.epa.gov/irmpoli8/policy-and-procedures-using-social-media-epa"]. Policy on the use of social media varies according to EPA region.

Others, including permitting agencies and facilities, also should carefully weigh the additional responsibilities that often are involved when adding a social media component to their communications strategy. Social media require a commitment to regularly updating information so that it remains fresh and current. It also is necessary to monitor social media sites carefully so that inappropriate comments are removed, online discussions and comments are appropriate and constructive, and malicious visitors to the site are detected and removed. This can involve a significant investment of time and technical IT expertise. Facilities should carefully consider their IT resources and ability to monitor and keep social media pages up to date before committing to using a social media platform as part of their overall public participation approach.

Utilizing "In the Moment" Videos

"In the Moment" videos are timely video clips that capture EPA events as they happen. These video characteristics include:

- Videos are shared via social media.
- Videos are short.
- Videos are self-explanatory so viewers do not need background information to understand the message.

A sample video is [HYPERLINK "https://www.youtube.com/watch?v=XZnHorAP2Q8"].

Agencies and facilities can use video tools such as In-the-Moment Videos that capture on-the-spot sound bites to promote messages through social media within hours of an EPA press conference or other event. Choose moments that stand on their own, and then add an explanation of the context. Create an experience for a viewer who may have missed your event and provide a quick snippet of information about your topic.

Planning for Public Participation When Resources are Limited

When planning public participation activities, permitting agencies should carefully consider the time and resources available to them. Government budgets recently have been cut, and the availability of funds for site travel has continued to decline. This trend is likely to continue. To meet this commitment, permitting agencies are finding creative ways to build and maintain relationships with affected communities and share information.

Using collaborative technologies such as webinars, virtual meetings and hearings, and cloud-file-sharing, along with discussion forums, newsfeeds, and availability sessions, provides many effective communication options. These tools can apply to public participation work, enabling permitting agencies to interact with community members when face-to-face meetings are not feasible. Agencies should think creatively, use the tools and technologies available, and make the best possible use of travel dollars when site trips are possible.

Evaluating Public Participation Activities

Without concrete feedback, it can be difficult for the permitting agency and facility to determine whether their public participation activities are reaching their intended audience and working as intended. It may be useful to solicit feedback and gather information that will help the agency and facility assess how well each approach or activity is meeting its intended objective.

A key to evaluating a short- or long-term public participation effort is to identify reasonable goals and objectives for the overall public participation approach, as well as to define objectives for each activity. Questions to consider include:

- What do you want to accomplish?
- Who is your target audience?
- What do you want community members to know?
- What actions do you want community members to take because of the outreach or public participation activity?

Once the goals are set, the next steps include developing measures of success, identifying and collecting measurement data, analyzing the data and adjusting the public participation activities, if appropriate.

If possible, conduct informal and formal evaluations throughout the entire RCRA process. Obtain informal feedback through one-on-one conversations after a community meeting, e-mails, or phone calls from community members. Conduct formal evaluations through interviews, surveys, and evaluation forms (paper or digital). However, the Paperwork Reduction Act of 1980 (44 U.S.C. § 3501 et seq.) applies whenever federal agencies request identical information from 10 or more public respondents.

Use the results of the evaluation to adjust specific activities or the overall approach, if necessary. Use informal feedback to make mid-course corrections to address any issues or shortcomings as they arise. Constant and consistent evaluation of public participation efforts can help improve outreach and continuously improve their public participation approach.

ED_002087_00000765-00034

CHAPTER 3: PUBLIC PARTICIPATION DURING THE RCRA (BASE)PERMITTING PROCESS

Introduction

This chapter describes the basic steps in the RCRA permitting process and the public participation activities that accompany those steps. It also provides a list of additional participation activities to supplement the requirements. (See Chapter 5 for details about public participation techniques and methods.)

Addressing community concerns at the start of a project can prevent misunderstanding and opposition in the long term.

All facilities that treat, store, or dispose of hazardous waste must obtain a RCRA permit, which is a legally binding document laying out the waste management activities that a facility can conduct and the conditions under which it can conduct them. New hazardous waste facilities must obtain a RCRA permit before beginning construction, and operating facilities must submit new permit applications six months before their existing permits expire.

The permit decision process is composed of several steps, each of which has public participation requirements. This manual divides the permit decision process into four stages:

- pre-application;
- application, including application submittal, agency notice, and review;
- preparation of draft permit, including preparation of the draft, public comment period, and public hearing; and
- final permit design, including response to public comments and the final permit decision.

After permits are issued, facilities often need modifications or renewals, each of which includes opportunities for public participation. In recent years, much of the RCRA permitting work has shifted from permit issuance to permit renewals and modifications. For more information on the RCRA permitting process, see [HYPERLINK "https://www.epa.gov/hwpermitting"].

Overview of Public Participation in the Permitting Process

Section 7004(b) of RCRA and EPA permitting regulations, found at parts 124 and 270 of Title 40 of the Code of Federal Regulations (CFR), form the foundation for mandatory public participation activities during the permitting process for both operating and post-closure permits. The corrective action schedule of compliance and other corrective action provisions are typically part of the RCRA permit, under 40 CFR part 270 (unless carried out under an enforcement order). Changes to these sections of the permit must follow the permit modifications procedures of the regulations [HYPERLINK "http://www.ecfr.gov/cgi-bin/text-idx?SID=e287b03b33510a523cf3a3b2f7a67c75&mc=true&node=pt40.29.270&rgn=div5" \l "se40.29.270_141"] or [HYPERLINK "http://www.ecfr.gov/cgi-bin/text-idx?SID=e287b03b33510a523cf3a3b2f7a67c75&mc=true&node=pt40.29.270&rgn=div5" \l "se40.29.270_142"]. See [HYPERLINK \l "_Chapter_4:_"] for public participation procedures for corrective action.

RCRA permitting regulations require public participation procedures during the permitting process and the life of the permit. However, situations often occur in which the facility and the agency may need to go

beyond these requirements to provide for meaningful and equitable public participation. In particular, regulators, facility staff or community groups may want to consider expanded public participation activities at controversial facilities or at facilities where the affected community has a particular need for greater involvement or access to information. Participants in the process should seek input from other stakeholders to determine if the public participation activities are adequate.

The permit decision process is lengthy and can be complex and confusing. Keeping the lines of communication open during the process takes effort from all participants. This effort is especially critical during the long periods of time when the agency is reviewing the permit or the facility may be responding to a Notice of Deficiency (NOD) described later in this chapter. The agency, the applicant and other interested groups should take steps to keep the community involved and informed during these down times.

Ash Grove Cement, Chanute, Kansas

RCRA Permitting Decision Process: The Ash Grove facility is located within a 30-mile radius of three similar facilities, which made public health a major concern for community members. The facility's initial RCRA permit request in 1996 prompted EPA to fund a grant to the University of Kansas Medical Center to study air pollution, cancer, and respiratory health in Southeast Kansas. The Kansas Department of Health and Environment (KDHE) and EPA also extended the public comment period and held a public hearing regarding the permit application. Because of public interest, EPA and KDHE formed a Chanute project team of managers, counsel, and technical and regulatory experts in RCRA, air and water monitoring, and compliance to expand community engagement through additional town meetings and other communication methods. The project team also created a distribution system to get immediate feedback and time-sensitive communications both to and from the community.

The permit decision process and the required public participation activities have four key stages (see Exhibit 3-1):

1. *The Pre-Application Stage*
   - Facility gives public notice and holds an informal public meeting.
   - Additional activities may include observation decks, facility tours, community tours, workshops, forums, facilitated discussions, news conferences, and regular updates (from construction to closure and post-closure) on social media. The facility or the permitting agency may conduct these updates about changes or progress for the community.
2. *Application Submittal, Notice and Review*
   - Agency issues a notice to the facility mailing list and state and local governments.
   - Agency makes application available for public review.
   - Additional activities may include observation decks, facility tours, community tours, workshops, forums, facilitated discussions, and news conferences.
3. *Preparation of Draft Permit, Public Comment Period, and Public Hearing*
   - Agency issues public notice of draft permit (or intent to deny).
   - Agency prepares a fact sheet or statement of basis.

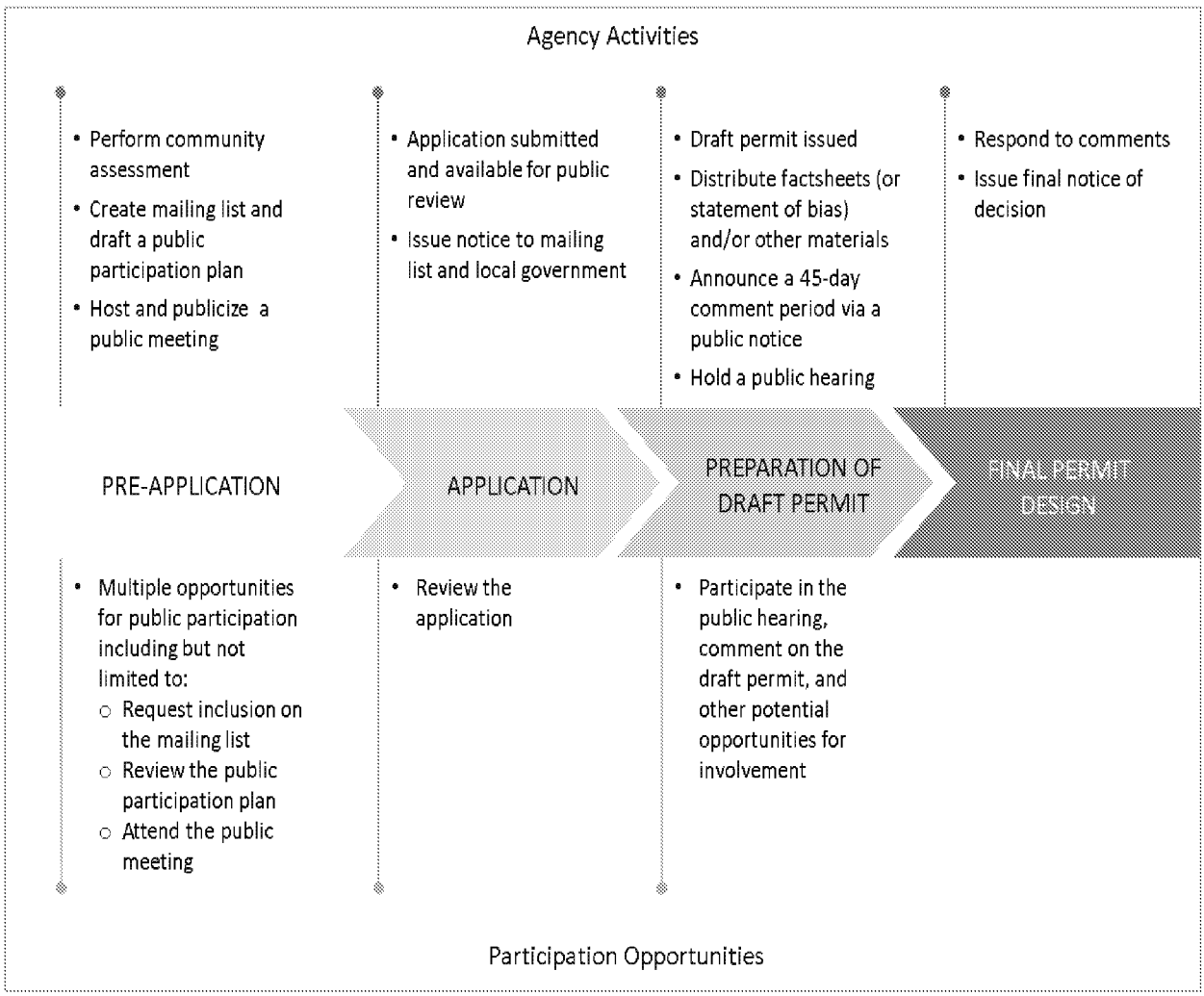
ED_002087_00000765-00036

- Agency provides public notice announcing a 45-day public comment period via mailing list, newspaper and radio.
- Agency holds a public hearing, if requested or at the agency's discretion, with a 30-day advance notice.
- Additional activities may include information sessions, workshops, news releases, and fact sheets, which may be disseminated through print or online media.

4. *Response to Public Comments and Final Permit Decision*

- Agency responds to all significant comments raised during the public comment period, or during public hearings.
- Agency issues notice of final permit decision.

Exhibit 3-1. General Timeline of Public Participation in the RCRA Permitting Process



Public Participation Roles During the Permitting Process

This section introduces the four stages of the permitting process, public participation activities currently required under federal regulations and statutes, and additional policies and activities that EPA recommends for each stage.

State permitting agencies may have processes and requirements that differ from the federal requirements. [HYPERLINK

Step One: Pre-Application Stage

Early public input can improve the quality of any permitting activity; the public can contribute information and recommendations that will help agencies as they make permitting decisions and facilities as they develop their applications and proposals. Incorporating early community input can help the draft permit to be more responsive to community needs and concerns, and the community may be more likely to accept the permit conditions if it sees that its concerns have been heard.

During the pre-application stage, these public participation activities are required:

- The permit applicant must host a pre-application meeting.
- The permitting agency must create a representative facility mailing list.

South Carolina Department of Health and Environmental Control (SC DHEC)

Early and meaningful public engagement: SC DHEC recognized the need to go beyond what was required in the RCRA regulations by engaging the community early in the process, building trust, and working with industry representatives to encourage them to do more than what regulation requires. Lessons learned from the agency's practices include the importance of focusing on early communication with the community – often before a permit application is submitted or a corrective action plan is drafted. SC DHEC notes that even if not all the information is available yet, it is best to be honest and upfront about what is known at the time, and let the public know when more information is expected to be available.

The Pre-Application Meeting

The RCRA Expanded Public Participation rule requires a new permit applicant (or a facility that is applying to renew a permit while making significant changes) to hold a public meeting before submitting the Part B RCRA permit application if significant changes are being requested. This meeting is the earliest required step in the RCRA permitting process. The pre-application meeting opens the dialogue between the permit applicant and the community, providing an open, flexible, and informal occasion for the applicant and the public to discuss a hazardous waste management facility's operations.

The pre-application meeting initiates a dialogue between the applicant and the public.

While a formal meeting style (e.g., a public hearing) may suit some permitting situations, EPA realizes that it will not suit all cases. EPA regulations allow flexibility in the type of meeting the permit applicant holds. For instance, an applicant may decide to hold an availability session or open house in place of a traditional meeting. As long as the approach meets the requirements and the spirit of 40 CFR § 124.31, EPA will not preclude applicants from tailoring meeting styles to fit particular situations.

ED_002087_00000765-00038

The permit applicant must provide notice of the pre-application meeting in three ways: through a display advertisement in a newspaper of general circulation in the community; with a visible and accessible sign at or near the facility or proposed facility site; and through a broadcast media announcement played at least once on at least one local radio or television station. EPA encourages facilities to pick a mix of public notice tools that meet the regulations and allow the affected community to receive equitable, timely, and effective notice of the pre-application meeting. This may include supplementing the required notice tools with other methods, such as posting announcements to relevant websites or social media.

The applicant also must send a copy of the notice to the permitting agency. EPA recommends that the applicant also send it to the facility mailing list, if such a list exists. The facility is required to keep, and to submit upon request, proof of the public notice, perhaps in the form of a receipt for a radio broadcast, a photograph of the sign, and a photocopy of a newspaper advertisement.

The notice must contain several pieces of information: the date, time, and location of the meeting; a brief description of the purpose of the meeting; and a brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location. It must also include a statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting; and the name, address, and telephone number of the applicant contact person.

At the meeting, permit applicants should address these topics:

- The type of facility the company will operate.
- The facility's location.
- The processes involved and the types of wastes the facility will generate and manage.
- The extent to which waste minimization and pollution prevention may supplement or replace waste treatment needs.
- The transportation routes the waste transporters will use.
- Planned procedures and equipment for preventing or responding to accidents or releases.

Tips for Interested Community Members

Public comments and suggestions are easier for the facility to address earlier rather than later in the process, so public input can have a greater impact at this stage. The interested public is encouraged to attend meetings at this stage to begin their involvement with the RCRA process. Before attending, contact the facility or other stakeholders to learn more about the facility's history and operations.

The applicant must post a sign-up sheet or a similar mechanism to allow participants to volunteer their names and addresses for the facility mailing list. This sign-up sheet should always be voluntary, and the applicant should make clear that people may contact the permitting agency directly to add their names to the facility mailing list at any time. The applicant then must submit this list of attendees, along with a summary of the pre-application meeting, as a component of the Part B permit application. While this summary need not be a word-for-word record of the meeting, it should make a good faith effort to provide an accurate account.

Applicants also should provide fact sheets, information packets or other materials that explain the proposed operations, company policies, waste minimization proposals or other relevant information for community members. Some applicants also may want to consider inviting a moderator to conduct the pre-application meeting or combining it with a state siting meeting. If meetings are combined, the applicant must run the portion of the meeting that is dedicated to the RCRA facility permit. The regulatory agency must give the applicant the floor for a sufficient period of time, and the applicant must make clear that the RCRA portion of the meeting is separate from the general siting discussion when notifying the public of the meeting under 40 CFR § 124.31(d).

ED_002087_00000765-00039

The Facility Mailing List

The permitting agency is responsible for developing a representative mailing list for public notices under 40 CFR § 124.10. While the agency is not required to create the mailing list at a particular time in the permitting process, EPA recommends developing one in the pre-application stage. The mailing list allows the agency to keep key groups and individuals in the community updated on facility activities, which enables the agency and the facility to better gauge community sentiment throughout the permitting process.

Gear public participation activities to the potential level of community interest.

The required meeting attendee list required under 40 CFR § 124.31(c) will help the agency generate the mailing list by identifying people or organizations who demonstrate an interest in the facility and the permitting process. Permitting agencies also should include all commenters on permitting documents, attendees at any public meetings, and people using information repositories. Permitting agencies also should contact civic organizations, religious groups, elected officials, and other stakeholder groups to invite their members to join the mailing list. The permitting agency also should create a mechanism that enables community members to add or remove their names from the mailing list. The agency needs to maintain the mailing list for any permit renewals or permit modifications that occur over the life of the permit. There are likely to be more interested parties for permit issuance than for routine modifications.

Additional Public Participation Activities

The level of public participation activities should correspond to the potential level of community interest in the permitting process. To determine the need for additional activities, state agencies should consider conducting a community assessment. If the level of interest is high, participants will want to do a more thorough needs assessment and prepare a formal public participation plan (see Chapters 2 and 5).

Information on the permitting process and facility activities can be technical and complex, and the public and other stakeholders may find it difficult to understand. The permitting agency and facility owner/operator should consider engaging in additional public participation activities in the pre-application stage to help make that information accessible to the public early in the RCRA process.

EPA encourages applicants to make fact sheets, information packets, or other materials available at the pre-application meeting. The permitting agency should also consider creating fact sheets about the RCRA permitting process. To ensure that notice of the pre-application meeting reaches as much of the community as possible, EPA recommends that permit applicants use notice methods that go beyond the requirements. These methods include public service announcements, publication in existing newsletters and publications, social media and other online platforms, and newspaper inserts and are described in Chapter 5.

The agency and facility also should consider hosting supplemental workshops or availability sessions to explain technical information. Some individuals or community groups may want to consult with other sources, including the permitting agency, local colleges and universities, and environmental and civic organizations for help in interpreting technical information.

Finally, the permitting agency has the right to require the facility owner/operator to establish an information repository at any point in the permitting process or during the life of a facility, and may wish to do so during the pre-application stage. The agency should assess the need for the repository by considering factors such as the level of public interest; the type of facility; the presence of an existing repository; and proximity to the nearest copy of the administrative record. The information repository can serve as a public access point for information on the facility and the RCRA process. In some cases, making notes from non-public meetings available through an information repository may increase public trust in the agency or the process.

ED_002087_00000765-00040

Step Two: Application Stage

After the applicant has met with the public and considered recommendations and input from the community, it may choose to continue pursuing a RCRA permit by submitting a RCRA permit application to the permitting agency. During this period, it is important to keep the public informed about the status of a facility's permit application. Upon receiving the permit application, the permitting agency must, under 40 CFR § 124.32, issue a public notice to the facility mailing list and appropriate units of state and local government. The notice will inform recipients that the facility has submitted a permit application for agency review. In addition, the notice will inform the recipients of the location where the application is available for public review.

The agency must notify the applicant in writing once it has reviewed the permit application. If the application is incomplete, the agency may issue a Notice of Deficiency (NOD) to the applicant requesting that the applicant submit the missing information. The agency may issue several NODs before the application is complete. The period during which the agency reviews the application can therefore be lengthy, taking anywhere from one to five years depending on the facility type and level of facility owner/operator cooperation.

During application submittal and review, these public participation activities are required:

- The permitting agency must make the application and supporting materials available to the public.
- The permitting agency must issue a public notice to the facility mailing list and appropriate units of government announcing receipt of the permit application.

Making the Application Available to the Public

Upon receiving the permit application, the permitting agency must make it and any supporting materials publicly available by placing the materials somewhere near the facility or at the agency office. To save community time and resources, the agency should place the application somewhere that is publicly accessible and has copying facilities (e.g., a public library or community center), as well as in the information repository, if one exists. The permitting agency's headquarters or satellite office may be an appropriate location for the materials. The agency also may want to make a short summary of the permit application available to the affected community or post materials online.

Public Notice Announcing Receipt of Application

Upon receiving the permit application, the permitting agency must, under 40 CFR § 124.32, issue a public notice to the facility mailing list and appropriate state, local, and tribal government agencies.

The notice must contain this information:

- The name and telephone number of the applicant's contact person.
- The name and telephone number of the permitting agency's contact office and a mailing address to which information, opinions, and inquiries may be directed throughout the permit review process.
- An address to which people can write to be added to the facility mailing list.
- The location where the public can view and copy the permit application and any supporting documents.
- A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location on the front page of the notice.
- The date that the application was submitted.

ED_002087_00000765-00041

Additional Public Participation Activities

EPA encourages agencies and facilities to plan activities to maintain a steady flow of information. Permitting agencies can keep the process open by sharing all NOD information with the public, whether through the administrative record, an information repository, or another activity, such as a workshop or online updates. If the NOD details are too arcane or technical to present directly to the public, the agency can provide a short fact sheet. Holding workshops, conducting informal meetings, and providing periodic fact sheets, press releases, and updates (including via online and social media) about the facility, opportunities for pollution prevention, and the RCRA permit process can help spread information and keep the community involved. Identifying a contact person to accept comments and answer questions will also enhance communication. A toll-free telephone hotline with recorded status reports can reduce the potential for rumors.

EPA encourages permitting agencies to respond (e.g., in writing, by email, by phone, at a meeting) to comments and requests from the public during the application review process. Agencies should make good faith efforts to address all public concerns and issues.

Step Three: Preparation of Draft Permit Stage

Once the permitting agency determines that an application is complete, it will make a decision to either issue or deny the permit. If the agency decides to issue the permit, it issues a draft permit outlining the conditions under which the facility can operate if the permit ultimately is approved. Otherwise, the permitting agency tentatively denies the permit and issues a notice of intent to deny the permit application. The permitting agency must announce this decision to the public, and must provide a public comment period of at least 45 days for public input on the draft permit or notice of intent to deny. More public participation is required during this stage than at any other time during the permitting process.

These public participation activities are required under 40 CFR § 124.6 during the draft permit stage:

- The permitting agency must issue a public notice when issuing a draft permit or a notice of intent to deny the permit application.
- The permitting agency must prepare a fact sheet or a statement of basis to accompany the draft permit.
- A 45-day public comment period begins following issuance of the draft permit decision.
- The permitting agency must host a public hearing if requested by the public. Even if no one requests a hearing, the agency may choose to hold one at its own discretion.

Public Notice of Draft Permit Decision

Whether the permitting agency decides to issue a draft permit or a notice of intent to deny the permit application, the agency must notify the public of the decision and the start of the 45-day (or longer) public comment period. The agency must print the notice in a local newspaper, broadcast it over a local radio station, and send a copy to the facility mailing list, relevant agencies, and applicable state, local, and tribal government bodies. EPA encourages agencies to attempt to reach all segments of the affected community, within reasonable means, when issuing the notice of the draft permit decision. Additional methods of reaching the public include using websites, social media, blogs, flyers in community centers and multilingual materials. Although the permitting agency is not required to retain documentation of the notice, EPA recommends keeping a simple file with proof of the notices.

Fact Sheet or Statement of Basis

The permitting agency must prepare a fact sheet or a statement of basis to accompany every draft permit. Regulation requires this fact sheet (40 CFR § 124.8) or statement of basis (40 CFR § 124.7), which differs

from commonly used informational fact sheets. This fact sheet must explain the principal facts and the significant factual, legal, methodological, and policy questions considered when preparing the draft permit (40 CFR § 124.8(a)). The fact sheet must also include, as applicable:

- a brief description of the type of facility or activity that is the subject of the draft permit;
- the type and quantity of wastes that are proposed to be handled at the facility;
- a brief summary of the basis for the draft permit conditions;
- reasons that any requested variances or alternatives to required standards do or do not appear justified;
- description of the procedures for reaching a final decision on the draft permit, including the beginning and ending dates of the comment period and an address to which comments can be sent; procedures for requesting a hearing and the nature of the hearing; and any other public participation procedures before the final permit decision; and
- the name and telephone number of a contact person for additional information. (40 CFR § 124.8(b))

A statement of basis is prepared for every permit for which a fact sheet is not prepared (40 CFR § 124.7). The statement of basis should briefly describe the derivation of the conditions of the draft permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons supporting the tentative decision.

EPA recommends that the permitting agency include the fact sheet or statement of basis with the notice of the draft permit and make it available to all interested parties.

Public Comment Period and Public Hearings

Once the permitting agency issues the notice and fact sheet or statement of basis on the draft permit decision, the public has 45 days to comment on the decision. During this period, anyone may submit concerns or suggestions to the agency in writing, and the agency must later consider all significant comments in its final permit decision. EPA encourages stakeholders to submit comments during this period.

Any person may request a public hearing during the public comment period. The agency must hold a public hearing if someone submits a written notice of opposition to a draft permit and a request for a hearing, or if the number of requests for a public hearing demonstrates a significant degree of public interest in the draft permit. The agency also may hold public hearings at its discretion. The agency must notify the public about any hearings at least 30 days in advance; it may choose to combine this notice with the draft permit notice. As with all comments submitted during the public comment period, the agency must describe and respond to all significant comments raised during the public hearing.

Additional Public Participation Activities

Since the draft permit stage of the process is a period with extensive public involvement, EPA strongly recommends that permitting agencies prepare public participation plans to keep track of activities during this stage. Even the least controversial facilities should consider preparing a public participation plan. It also is crucial to ensure that the public stays informed of the schedule for public participation activities, so the permitting agency should consider using communication methods that go beyond the required public notice. The permitting agency may want to prepare a news release when issuing the draft permit or notice of intent to deny. Telephone hotlines, voice-mail recordings, website updates and social media posts also can help inform the community of the dates and locations of public participation events.

ED_002087_00000765-00043

Since the draft permit stage provides many opportunities for the public to express concerns about a RCRA facility, it is important to ensure that community members have ample resources to develop an accurate understanding of the facility and the RCRA process. The agency, facility, or a public interest group may want to organize an availability session, facility tours, or some other activity during or prior to the comment period so that the public can learn more about the facility. Permitting agencies may hold public meetings prior to a public hearing to provide a better forum for discussing issues.

> **Using E-Resources**
>
> If on-site facility tours or observation decks are not feasible, the facility may post an online virtual tour, which guides viewers through graphics and videos of the facility. The facility owner/operator also may help familiarize the public with the facility by posting e-resources like Google Earth KMZ files or similar maps.

In situations where a community wants more information on potential facility operations and the health and environmental risks of those operations, community members or the agency can work with the facility to set up facility tours or observation decks (safety permitting) during the public comment period. These activities may be particularly useful for new facilities; facilities with proposed new or different technologies; or explanations of pollution prevention accomplishments and opportunities. However, these types of on-site activities can be a challenge because facilities typically are not constructed until after the permit is issued.

While regulations require requested or necessary public hearings, interested stakeholders also may provide informal meeting opportunities during this period. The public or other stakeholders may request one-on-one or small-group informal meetings with the permitting agency, the permit applicant, or community groups, or hold an informal forum for themselves. These informal meetings might improve cooperation between stakeholders by providing a less confrontational setting than a public hearing.

Step Four: Final Permit Design Stage

After the public comment period closes, the Agency reviews and evaluates all written and oral comments and reconsiders its initial decision on the draft permit. After responding to all significant public comments, the Agency makes a final decision to issue or deny the final permit.

These public participation activities are required per 40 CFR §§ 124.15 and 124.17 during the final permit design stage:

- The permitting agency must issue a notice of decision on the permit application.
- The permitting agency must prepare a response to comments document addressing all significant comments raised during the public comment period.

The agency must send a notice of decision (not to be confused with a Notice of Deficiency) to the facility owner/operator and any people who submitted public comments or requested notice of the final permit decision. The agency must also prepare a written response to comments that includes a summary of all significant comments submitted during the public comment period and an explanation of how the agency addressed or rejected the comments in the final permit decision. This response to comments shows the community that the agency considered the community's concerns in the final permit decision. The agency must make the response to comments document available as part of the administrative record.

Additional Public Participation Activities

If the level of public interest during the comment period was high, the agency or facility may want to issue a news release or fact sheet when the final decision is made, to inform a wide audience of the decision. It may post this information online or announce the decision via the agency's or facility's website or

ED_002087_00000765-00044

social media account. The permitting agency may choose to update and release the fact sheet required in 40 CFR §124.8.

Public Participation During the Life of a Permit

The life of a RCRA permit encompasses all stages of facility operation, from construction to closure and post-closure care. Over the life of a permit, updating the permit through permit renewals and permit modifications typically takes more time than permit issuance. Many of these permit renewals and modifications also include required and recommended public participation activities. Facilities that leave waste in place when they close must obtain a post-closure permit; there are specific requirements for public participation associated with closure and post-closure care.

Permit Modifications

Over time, facilities undergo changes that trigger the need to modify their permits. Just as public participation is a component of the initial permitting process, it is also a part of the permit modification process.

There are many reasons to modify a permit. Public participation responsibilities and activities vary depending on who initiated the modification (i.e., the permitting agency or the facility owner/operator), as well as the degree to which the modification would change substantive permit provisions. Regardless of who initiates the modification or when a modification is proposed, only those permit conditions subject to modification are reopened for public comment.

In some cases, the agency may initiate a permit modification under 40 CFR § 270.41 to make alterations or additions to the permitted facility or activity; incorporate new information the agency has received; incorporate new standards, regulations or judicial decisions affecting the human health or environmental basis of a facility permit; or modify a compliance schedule for corrective action in the permit. Modifications initiated by the regulatory agency are subject to the full public participation requirements outlined in 40 CFR part 124, as described earlier in this chapter. The agency-initiated process is relatively uncommon.

More often, the facility owner/operator requests a permit modification to improve facility operations or make changes in response to new standards. Facility-initiated modifications are categorized under 40 CFR § 270.42 as Class 1, 2, or 3 according to how substantively they change the original permit.[5]

- **Class 1 modifications** do not substantially alter the conditions in the initial permit or reduce the facility's ability to protect human health and the environment. Most Class 1 modifications require

Public Participation in Recycling Variances

Recyclers of hazardous materials may operate under one of the *variances* or *non-waste determinations* listed in the CFR, including the new **verified recycler variance** announced in January 2015 as part of the revised Definition of Solid Waste rule. The goal of the verified recycler variance is to provide communities strong protection against the potential for mismanagement of hazardous materials intended for recycling, while encouraging legitimate recycling activities to continue. The process for granting this variance is similar to that for granting a permit, and includes public notification and the opportunity for a public hearing. The same public participation guidance that applies to permitting also should be considered during the solid waste variance and non-waste determination process.

[5] As of 2015, five states (Alabama, Florida, Maine, Minnesota, and Ohio) use the original "major or minor" permit categories in lieu of the three class system introduced in the optional 1988 rule (53 FR 37912).

ED_002087_00000765-00045

prior approval by EPA or the authorized state permitting agency. Some types do not require prior approval, as specified in the regulations.

- **Class 2 modifications** address common, facility-initiated changes needed to maintain safety or regulatory compliance at the facility. Class 2 modifications enable facility owners/operators to respond to variations in the types and quantities of waste managed by the facility, technological advancements, and new regulatory requirements. Class 2 modifications do not substantially alter the facility's design or waste management practices as outlined in the initial permit. Class 2 modifications do not reduce, and in most cases should enhance, the facility's ability to protect human health and the environment.
- **Class 3 modifications** cover major changes that substantially alter the facility or its operations. For example, changes to waste management practices to accommodate new types of waste, substantial increases in storage capacity, or changes to the facility's groundwater monitoring program would require a Class 3 modification.

Exhibit 3-2 provides additional examples of the types of changes covered by each modification classification. Exhibit 3-3 illustrates a process flowchart for each modification type.

The process for modifying a permit and the accompanying requirements for public participation differ depending on the classification of the modification. For Class 2 and 3 modifications, the modification process follows a series of steps similar to the initial permit application process. In contrast, the administrative requirements for Class 1 modifications are comparatively minor.

The public participation requirements are described in more detail in Exhibit 3-4. Class 2 and 3 modifications require the facility to involve the public in many steps throughout the process, but Class 1 modifications require only the distribution of a public notice. The facility owner/operator is responsible for conducting much of the public participation for modifications he or she initiates, particularly for Class 2 and 3 permit modifications.

The facility, rather than the agency, bears much of the burden of explaining its actions to the public, although the agency provides additional explanations to the public for Class 3 modifications. Federal regulations require the permitting agency to maintain an updated mailing list, although some state regulations delegate this responsibility to facilities. To ensure that the facility's public participation efforts are successful, facility and agency staff should discuss how to conduct the required activities, and the agency should provide guidance and assistance where necessary. EPA also encourages facilities to consult with communities to determine which activities will best promote public participation.

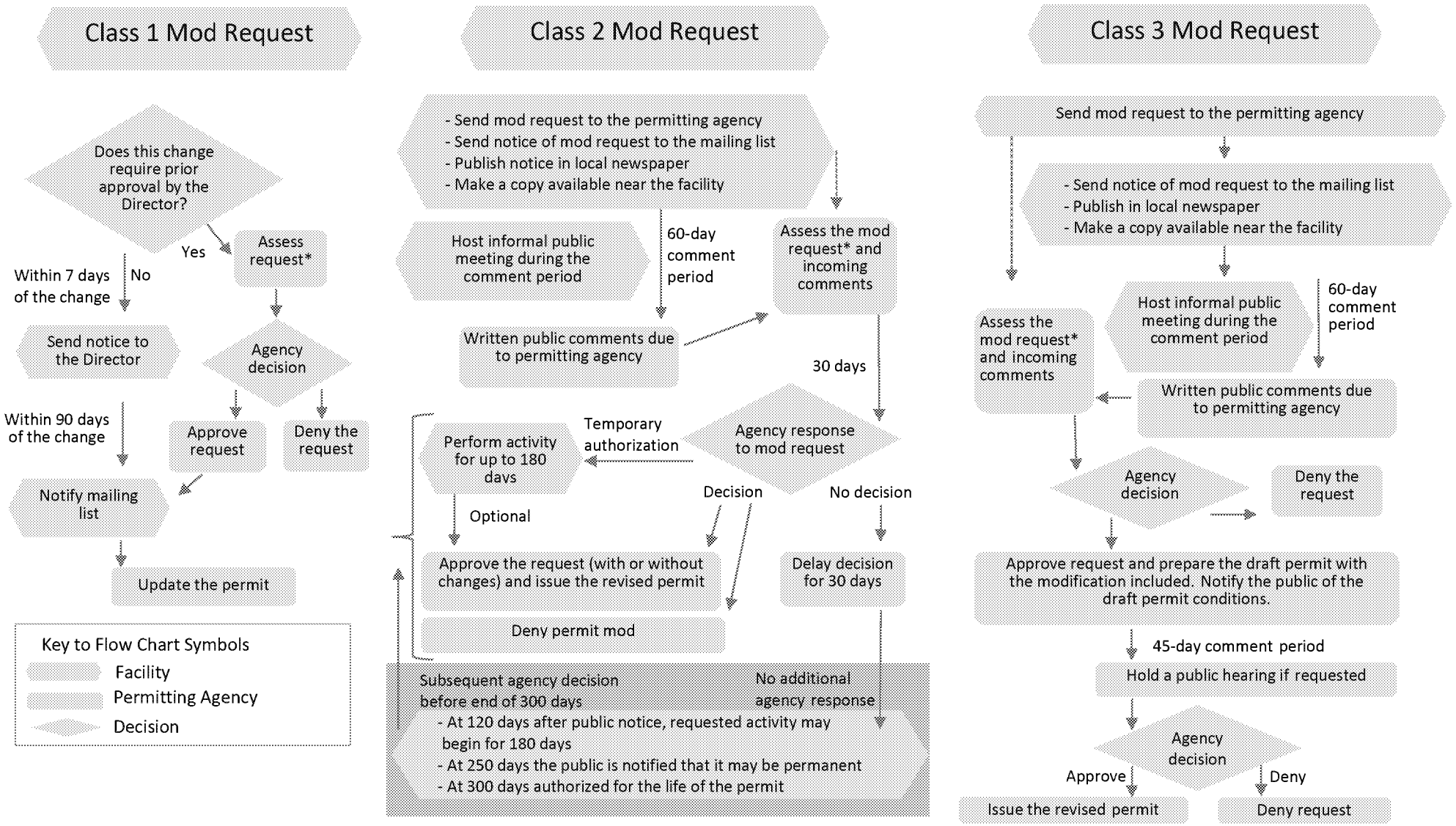
Exhibit 3-2. Examples of Permit Modification Classifications

CLASS 1	CLASS 2	CLASS 3
Administrative and informational changes	Changes in frequency or content of inspection schedules	Addition of corrective action program
Correction of typographical errors	Changes to corrective action program	Creation of a new landfill as part of closure
Changes in names, addresses, and phone numbers of emergency coordinators	Extensions of post-closure care period	Addition of compliance monitoring to groundwater monitoring program
Changes to waste sampling and analysis methods to comply with new regulations	Changes to facility training plan that affect the type or amount of employee training	Reduction in post-closure care period

CLASS 1	CLASS 2	CLASS 3
Changes to analytical quality assurance and quality control plan to comply with new regulations	Changes in number, location, depth, or design of groundwater monitoring wells	Addition of temporary incinerator for closure activities
Note: Permit modifications are classified in more detail in Appendix I to 40 CFR § 270.42.		

ED_002087_00000765-00047

Exhibit 3-3. Process for Class 1, 2, and 3 Permit Modifications (Mod)



See [HYPERLINK "http://www.ecfr.gov/cgi-bin/text-idx?SID=de66ea380e5504bb1e0da417840b8002&mc=true&node=pt40.29.270&rgn=div5" \l "se40.29.270_142"] for the full federal regulations for permittee mod requests. State regulations may vary. Several states have not adopted the regulations for the three class structure, and use the preexisting Major and Minor Mod structure. * The permitting Agency may need

Exhibit 3-4. Public Participation Requirements for Class 1, 2, and 3 Permit Modifications

MODIFICATION CLASS	TYPES OF CHANGES COVERED	FACILITY REQUIREMENTS AND TIMING FOR PUBLIC PARTICIPATION ACTIVITIES	AGENCY REQUIREMENTS AND TIMING FOR PUBLIC PARTICIPATION ACTIVITIES
Class 1 – no prior approval required	Routine and administrative changes	• **Within 7 days**: Inform agency. • **Within 90 days of implementing the change**: Notify mailing list.	• Provide the maintained mailing list to facility.
Class 1 - prior approval required	More involved administrative changes (such as change of ownership), changes in procedures, and specific facility modifications	• **Day 1:** Submit modification request to agency. • **Within 90 days of agency approval:** Notify mailing list.	• Provide the maintained mailing list to facility.
Class 2	Improvements in technology and management techniques	• **Day 1:** Submit modification request to agency. • **Within 7 days:** Publish newspaper notice, notify mailing list, and place copy of permit modification request and supporting documents in accessible location in the vicinity of facility. Newspaper notice marks start of 60-day public comment period. • **Between days 15-45:** Hold public meeting. • If agency does not act **within 250 days** of the modification request, notify mailing list that automatic authorization will become permanent in 50 days. • **Day 300:** If agency has not responded, activity is permanently authorized. • **If requesting a temporary authorization, within 7 days of request:** Notify public.	• Provide the maintained mailing list to facility. • **Day 60:** Public comments on the modification request due to agency. • **Day 90:** Response to modification request due, including response to all written and significant comments. Deadline may be extended 30 days. • Issue notice to the mailing list **within 10 days** of any decision to grant or deny modification request. • Issue notice to the mailing list **within 10 days** after automatic authorization goes into effect.

ED_002087_00000765-00049

MODIFICATION CLASS	TYPES OF CHANGES COVERED	FACILITY REQUIREMENTS AND TIMING FOR PUBLIC PARTICIPATION ACTIVITIES	AGENCY REQUIREMENTS AND TIMING FOR PUBLIC PARTICIPATION ACTIVITIES
Class 3	Major changes to a facility and its operations	• **Day 1:** Submit modification request to agency. • **Within 7 days:** Publish newspaper notice, notify mailing list, and place copy of permit modification request and supporting documents in accessible location in the vicinity of facility. Newspaper notice marks start of 60-day public comment period. • **Between days 15-45:** Hold public meeting. • **If requesting a temporary authorization, within 7 days of request:** Notify public.	• Provide the maintained mailing list to facility. • **Day 60:** Public comments on the modification request due to agency. • **After conclusion of 60-day comment period**: Grant or deny the modification request according to permit modification procedures of the CFR: • Issue public notice of draft modification or intent to deny modification. • Prepare a fact sheet or statement of basis. • Announce 45-day public comment period on draft permit decision. • Hold public hearing, if requested or at agency's discretion, with 30-day advance notice. • Consider and respond to all significant written comments received during 60-day comment period. • Respond to written and oral comments from 45-day comment period.

Closure and Post-Closure at Permitted Facilities

Facilities may discontinue operations at one or more solid waste management units (SWMUs) for a number of reasons. The units may have reached capacity, the facility owner/operator may no longer wish to accept waste, or the facility may have lost interim status (see following section) and be required to close by the permitting agency. During closure, facility owners/operators complete treatment, storage, and disposal operations; apply final covers or caps to landfills; and dispose of or decontaminate equipment, structures, and soil. Post-closure, which applies only to land disposal facilities that do not "clean close," or remove all contaminants from the unit, is normally a 30-year period after closure during which owners/operators conduct monitoring and maintenance activities to preserve the integrity of the disposal system. However, the regulatory agency has discretion to extend or shorten the length of the post-closure care period as necessary to ensure protection of human health and the environment. Any potential changes to the length of the post-closure care period should be presented to the public.

The public may be concerned about the thoroughness of cleanup and post-closure monitoring at facilities.

EPA regulations (40 CFR §§ 264.112 and 264.118) require facilities seeking operating permits to submit closure and post-closure plans (if appropriate) with their Part B applications in accordance with 40 CFR § 270.14(b) (13). Land disposal facilities that leave waste in place when they close must obtain a post-closure permit, which specifies the requirements for proper post-closure care. The public has the opportunity to comment on a facility's closure and post-closure plans and any amendments made to the plans as part of the permitting and permit modification processes, as described earlier.

In the RCRA Expanded Public Participation rule, facilities seeking permits for post-closure are exempt from hosting the required pre-application meeting (40 CFR 124.31). However, the facility, permitting agency, or a community group may decide to hold some type of meeting prior to issuance of the post-closure permit.

The permitting agency and other involved organizations should be aware of concerns the public may have around facility closure, including:

- reservations about how clean the facility will be after it closes;
- concern that the facility owner/operator will not have the will or financial resources to uphold his or her obligations to monitor post-closure operations at the facility, particularly if he or she leaves the facility or community; and
- concerns about corrective action, if the facility closes before all necessary corrective actions are completed and is subject to a compliance schedule for corrective action.

Public interest groups, the permitting agency, or the facility should try to address these concerns by providing fact sheets and online resources or by conducting educational workshops and informational meetings about the closure plan and facility conditions. A "full" facility closure requires full public involvement activities. However, for a partial closure that only involves permit modification, the extent of public participation already is included in the process.

Public Participation at Interim Status Facilities

When writing the RCRA legislation, Congress granted special status to facilities that existed when the statute went into effect and to facilities that would be brought under RCRA by new regulations. EPA refers to these facilities as having interim status. As of 2015, there are fewer than 20 facilities operating under interim status, although many more are in closure or post-closure stages. According to RCRA, interim status facilities do not need a permit to operate; instead, while they are seeking permits, they

ED_002087_00000765-00051

follow a category of regulations EPA created specifically for them. When EPA or a state issues a RCRA operating permit to one of these facilities, the facility loses its interim status.

Interim Status Facility Operation

Because interim status facilities can operate without a permit, many people are concerned that some of these facilities are not as safe as permitted facilities. In addition, because they are not permitted facilities, interim status facilities are not required to follow public participation procedures. Interim status facilities therefore often pose public participation challenges, even though many of them have been operating for years.

A good facility-community relationship during interim status will make for a more cooperative permitting process.

Regulatory agencies may need to use innovative techniques to communicate with and provide information to communities about interim status facilities. If the public shows interest in an interim status facility, the permitting agency and facility owner/operator should consider taking these steps to encourage public participation:

- The agency may host a workshop or availability session to explain the special situation of interim status facilities to the public and to provide information on facility operations.
- The facility may set up an on-site information booth, website, or information repository to provide background materials to the public.
- The facility or agency may establish a contact person, and make his or her name and contact information available to the public to improve communication between the facility/agency and community.

If an interim status facility begins to attract public interest, the agency should consider moving the facility toward getting a permit and undergoing the public participation steps the permitting process requires. The permitting process will give community members an opportunity to air concerns and to encourage the facility to make important changes. As an interim status facility begins the permitting process, it can start to involve the community by making a draft Part B application available to the public before submitting it to the permitting agency.

Closure and Post-Closure at Interim Status Facilities

Facilities may also close under interim status, often under enforcement orders. Facilities that are closing under interim status must submit closure and post-closure plans (if appropriate) under 40 CFR §§ 265.112 and 265.118. Public participation activities for interim status facilities during the closure and post-closure processes are specified in 40 CFR §§ 265.112(d)(4) and 265.118(f).

In some cases, the facility, public or permitting agency may seek to modify these closure or post-closure plans. The public can petition the agency to extend or reduce the post-closure care period at an interim status facility or land disposal unit, and the agency can then initiate modifications to the plans. An interim status facility may amend its closure plan at any time prior to the notification of partial or final closure, and its post-closure plan any time during the active life of the facility or during the post-closure care period. To do so, a facility owner/operator with an approved closure or post-closure plan may submit a written request to the agency to authorize a change. Exhibit 3-5 summarizes requirements for public participation during issuance and revision of closure and post-closure plans.

ED_002087_00000765-00052

Exhibit 3-5. Public Participation Requirements for Issuance and Revision of Closure and Post-Closure Plans at Interim Status Facilities

TYPE OF ACTION	REGULATORY REQUIREMENTS FOR PUBLIC PARTICIPATION
Creation of Closure or Post-Closure Plan	• The agency must issue a public notice in the newspaper announcing that the public and facility can submit written comments and request modifications to the closure and post-closure plans within 30 days. • In response to a request or at its own discretion, the agency may hold a public hearing on the plan(s), if such a hearing might clarify one or more of the issues concerning the plan(s). The agency must provide public notice at least 30 days before the hearing. • The agency must approve, modify, or disapprove the plan(s) within 90 days of their receipt.
Public Petition on Post-Closure Plan	• The public can petition the agency to extend or reduce the post-closure care period applicable to an interim status facility or land disposal unit. • Whenever the agency is considering a petition on a post-closure plan, it must issue a public notice in the newspaper announcing that the public and facility can submit written comments within 30 days. • In response to a request or at its own discretion, the agency may hold a public hearing on the post-closure plan, if such a hearing might clarify one or more of the issues concerning the plan. The agency must provide public notice at least 30 days before the hearing. • If the agency tentatively decides to modify the post-closure plan, it must issue a public notice in the newspaper announcing that the public and facility can submit written comments and request a public hearing within no more than 30 days. • After considering the comments, the agency issues a final decision.
Facility- or Agency-Initiated Modification to Closure or Post-Closure Plan	• If an amendment to the closure plan would be a Class 2 or 3 permit modification according to the criteria specified in [HYPERLINK "http://www.ecfr.gov/cgi-bin/text-idx?SID=de66ea380e5504bb1e0da417840b8002&mc=true&node=se40.29.270_142&rgn=div8"], then it is subject to the public participation procedures in [HYPERLINK "http://www.ecfr.gov/cgi-bin/text-idx?SID=de66ea380e5504bb1e0da417840b8002&mc=true&node=pt40.28.265&rgn=div5" \l "se40.28.265_1112"] (see requirements under Creation of Closure or Post-Closure Plan). • If an amendment to the post-closure plan would be a Class 2 or 3 permit modification according to the criteria specified in [HYPERLINK "http://www.ecfr.gov/cgi-bin/text-idx?SID=de66ea380e5504bb1e0da417840b8002&mc=true&node=se40.29.270_142&rgn=div8"], then it is subject to the public participation procedures in [HYPERLINK "http://www.ecfr.gov/cgi-bin/text-idx?SID=de66ea380e5504bb1e0da417840b8002&mc=true&node=pt40.28.265&rgn=div5" \l "se40.28.265_1118"] (see requirements under Creation of Closure or Post-Closure Plan).

CHAPTER 4: PUBLIC PARTICIPATION IN RCRA CORRECTIVE ACTION UNDER PERMITS AND RCRA § 3008(H) ORDERS

Introduction

This chapter describes EPA's public participation guidelines for the corrective action program. It reflects the current EPA position on these issues as the corrective action program continues to evolve.

Individuals should check with their state environmental agency for information on public participation opportunities.

EPA may authorize state environmental agencies to implement the corrective action program, provided that the state's corrective action requirements are at least as stringent as the federal requirements. Where states implement the program, EPA plays an oversight role. At the federal level, corrective actions may take place under a RCRA permit or as an enforcement order under § 3008 (h) of RCRA. Where RCRA permits are modified to incorporate corrective actions, these changes must follow permit modification procedures in 40 CFR §270.41 or 270.42. In authorized states, corrective action may take place under a state-issued RCRA permit, a state cleanup order, a state voluntary cleanup program or another state cleanup authority. EPA encourages interested individuals to check with their state agency for information on the available corrective action sites in the area.

Corrective actions usually involve these key stages:

- Initial Site Assessment (RCRA Facility Assessment, or RFA).
- Site Characterization (RCRA Facility Investigation, or RFI).
- Interim Actions.
- Evaluation of Remedial Alternatives (Corrective Measures Study, or CMS).
- Remedy Selection (Statement of Basis).
- Remedy Implementation (Corrective Measures Implementation, or CMI).
- Completion of the Remedy.

While these elements compose the typical approach to facility cleanup, facilities may use alternative approaches if they achieve remediation. The degree of cleanup necessary to protect human health and the environment varies significantly across RCRA facilities, so few cleanups will follow exactly the same course.

U.S. Navy's Atlantic Fleet Weapons Training Facility, Vieques Island, Puerto Rico

RCRA corrective action: Starting in 2003, community members were involved in activities related to corrective action at this Navy facility, including development of a Community Involvement Plan; participation on a Restoration Advisory Board; involvement in public forums; and creation and distribution of fact sheets, newsletters, and other public materials in both Spanish and English.

ED_002087_00000765-00054

Overview of Public Participation in Corrective Action

There are several key considerations to keep in mind while planning public participation for RCRA corrective action:

- **Public participation during corrective action derives from a combination of regulations and EPA guidance.** Although regulations under Parts 124 and 270 of Title 40 of the Code of Federal Regulations (CFR) outline the required public participation activities for corrective actions beginning with permit issuance or modification, there are no regulatory requirements for public participation in corrective actions under RCRA § 3008(h) orders. EPA guidelines advise additional public participation activities in both cases, suggesting supplementary provisions that the permitting agency may include in the permit for corrective actions. EPA recommends that corrective action processes under RCRA § 3008(h) orders include the same provisions for public participation that accompany corrective action under a permit.
- **Public participation in RCRA corrective actions should be consistent with Superfund procedures.** A significant portion of the RCRA corrective action process is similar to the Superfund process. EPA encourages permitting agencies and facilities to make public participation activities under the RCRA system consistent with the activities required under Superfund, whenever appropriate. Of course, it also is important to recognize the significant differences between the RCRA and Superfund programs, and the difficulty of directly applying Superfund public participation requirements at each stage of the RCRA corrective action process.

Directives for Public Participation Under RCRA § 3008(H) Orders

EPA recommends that the substantive corrective action requirements and public participation requirements imposed under an order should be the same as those if corrective action were taking place under a permit. There are two directives addressing public participation in RCRA § 3008(h) orders Directive 9901.3, Guidance for Public Involvement in RCRA Section § 3008(h) Actions (May 5, 1987) and Directive 9902.6, RCRA Corrective Action Decision Documents: The Statement of Basis and Response to Comments (April 29, 1991). These directives that suggest public participation activities in orders, even though such activities are not required by statute. The directives suggest these activities after the selection of a proposed remedy:

- Writing a statement of basis discussing the proposed remedy;
- Providing public notice that a proposed remedy has been selected and the statement of basis is available;
- Providing a public comment period (30-45 days) on the proposed remedy;
- Holding a public hearing if requested; and
- Writing a final decision and response to comments.

- **Stakeholders must share responsibility for public participation activities in corrective actions.** Since certain cleanup steps in a corrective action process may be implemented by different stakeholders - primarily the overseeing agency or the facility owner/operator - these stakeholders should consider how best to share responsibilities for public participation. Public participation activities often will be more useful if the individuals who conducted the most recent cleanup step conduct these activities. If the facility owner/operator performs a facility investigation, it is more appropriate for the facility owner/operator to run the following public meeting, rather than the permitting agency.

ED_002087_00000765-00055

Special Considerations for Public Participation Activities Under RCRA § 3008(h) Orders

Though corrective actions under RCRA § 3008(h) orders should offer roughly the same public participation activities as those under permits, there are several special considerations involved in corrective actions under orders:

- **Consent vs. Unilateral Orders:** RCRA § 3008(h) orders may be issued either on consent or unilaterally. A consent order is issued when the facility and the regulatory agency agree about the corrective action; a unilateral order is issued when the regulatory agency and the facility are unable to agree about the need for, or the scope of, corrective action. Public participation will likely proceed differently depending on whether corrective action is proceeding under a consent or unilateral order. When corrective action takes place under a consent order, the regulatory agency should explain to the community that corrective action orders on consent are a means to expedite initiation of corrective action activities. Under a consent order, the agency should consider negotiating with the facility to prepare a public participation plan—if community interest in the facility is high—or at least conduct some activities as terms of the order. If the agency issues a unilateral order, it may be necessary or appropriate for the agency to assume all or most public participation responsibilities.
- **Limitations on Releasing Information:** When the Agency is negotiating an order with the facility, some information might be confidential. The aim of these negotiations is to encourage frank discussion of all issues and resolve differences, allowing the agency to issue an order on consent rather than unilaterally. Public disclosure of some information may be in violation of state and federal statutes and could jeopardize the success of the negotiations, so agency staff should coordinate any public notices before releasing information. If community interest in the facility is high, the project manager, project staff, and the Public Involvement Coordinator, if there is one, should discuss how to address concerns without breaching confidentiality. At the very least, the public deserves to know why these limitations are necessary, and when and if they will be lifted.

Public Participation Roles During RCRA Corrective Action

There are several public participation activities currently required under federal regulations, as well as additional activities that EPA recommends. Exhibit 4-1 summarizes the stages of the RCRA corrective active process and corresponding opportunities for public participation.

ED_002087_00000765-00056

Exhibit 4-1. Elements of Corrective Action and Opportunities for Public Participation*

CORRECTIVE ACTION ELEMENT	OPPORTUNITIES FOR PUBLIC PARTICIPATION
RCRA Facility Assessment (RFA) (Initial Site Assessment)	• Permit is available for public comment. • For enforcement orders, administrative record is available for public review. • Additional activities: mailing list, public participation plan, fact sheets, open house, workshop.
RCRA Facility Investigation (RFI) (Site Characterization)	• Permit is available for public comment. • For enforcement orders, planned RFI is available for public comment. • Information repository is established, if required. • Additional activities: mailing list, public participation plan, fact sheets, summary of RFI report, notifications for discovery of contamination, informal meetings, workshops.
Interim Measures (IM)	• Permit is available for public comment. • Additional activities: interim action plan, contact person, fact sheets, informal meetings. • Depending upon whether the IM directive affects off-site areas (e.g., vapor intrusion, community drainage ways), customized activities may include residential property access and cleanup agreements, data results letters, an agency webpage posting technical sampling results and work plans (showing sampling plan and data from off-site areas).
Corrective Measures Study (CMS) (Evaluation of Remedial Alternatives)	• Permit or permit modification is available for public comment. • Additional activities: preferred remedy presentation, informal meetings, availability sessions, workshops, fact sheets, contact person, hotline, web-based forums for public feedback.
Remedy Selection	• Tentatively selected remedy is available for public comment as part of permit modification. • Fact sheet or statement of basis published; public comment period and associated public hearing or public meeting held; response to comments published; final remedy decision and supporting information published. • Additional activities: informal meetings, workshops.
Corrective Measures Implementation (CMI) (Remedy Implementation)	• Permit modification is available for public comment. • Additional activities: CMI plans and specifications, fact sheets or other periodic updates, open houses, availability sessions.
Completion of the Remedy	• Permit modification is available for public comment. • Additional activities: notation of remaining hazardous waste recorded in deed to property.

* Depending on the level of public interest (see Exhibit 2-2), the opportunities and demand for public participation will vary.

ED_002087_00000765-00057

RFA – Initial Site Assessment

The corrective action process usually begins with an initial site assessment, called a RFA. Either the overseeing agency or the facility conducts the RFA with subsequent agency approval. The purpose of an RFA is to gather data about a site, including data on releases and potential releases of hazardous waste and hazardous constituents, to determine whether a cleanup may be necessary. RFAs usually include a file review of available facility information; a visual site inspection to confirm available information on SWMUs at the facility and to note any visual evidence of releases; and in some cases, a sampling visit to confirm or disprove suspected releases.

An RFA report records the RFA results, describes the facility and the waste management units present at the facility, and notes any releases or potential releases. It will also describe releases and potential releases from other, non-waste-management-associated sources (e.g., a spill from a product storage tank). Interested individuals may request copies of RFA reports from the appropriate EPA regional office or state agency. To obtain these reports, a Freedom of Information Act (FOIA) request is needed. For information on how to submit a FOIA Request to EPA, please visit [HYPERLINK "https://www.epa.gov/foia"].

If corrective action takes place in the context of a RCRA permit, the permit application will also describe the physical condition of the facility, including its subsurface geology, the waste management units present at the facility, and any releases and potential releases.

The RFA report usually serves as the basis for future corrective actions at a facility. If, after completion of the RFA, it appears likely that a release exists, the overseeing agency will develop facility-specific corrective action requirements in a schedule of compliance, which will be included in the facility's permit or in a RCRA § 3008(h) corrective action order.

Required Activities

For corrective action implemented through a permit, the public may comment on the schedule of compliance for corrective action during permit issuance and subsequent permit modification.

When corrective action is implemented though a RCRA § 3008(h) order, the public should be given an opportunity to comment on the schedule of compliance when the order is issued; however, it may take many months of discussions between the facility owner/operator and the overseeing agency before an order is issued. On the day the order is issued, the administrative record should be made available to the public. The administrative record contains all information considered by the agency in developing the order. The agency may want to place a copy of the administrative record at a local library near the facility.

E.I. DuPont de Nemours & Company (DuPont), Pompton Lakes, New Jersey

Use of social media: Community engagement was a particularly high priority at this site due to public health concerns raised by ongoing remedial investigations and actions. In addition to the typical communication methods of a Community Advisory Group, public meetings, and website updates, this site also had a Community Involvement Coordinator who maintained a Facebook page dedicated to the site. The page featured photographs, information on public and recent news, and community discussions, providing another forum for information sharing.

ED_002087_00000765-00058

Additional Activities

During the discussions between the facility owner/operator and the overseeing agency before a RCRA § 3008(h) order is issued, which can take months to years, the facility owner/operator may develop a mailing list (which may include e-mail addresses in addition to physical addresses) and a public participation plan.

The overseeing agency or facility owner/operator then should consider creating a fact sheet with details of the order and the corrective action process. If there is a high level of interest in the facility, the agency or facility owner/operator should also consider holding an open house or workshop. Wherever possible, the overseeing agency or facility owner/operator should provide similar information online (e.g., publishing fact sheets on its website, uploading video recordings of workshops, or posting updates to social media).

RFI – Site Characterization

A RFI is necessary when a release or potential release has been identified, but additional information is required to determine the nature and scope of possible corrective actions. The purpose of an RFI is to characterize the nature and extent of contamination at the facility and to support selection and implementation of a remedy or, if necessary, interim measures.

Required Activities

If corrective action takes places in the context of a RCRA permit, the public has the opportunity to review and comment on the scope of the RFI, and RFI schedules and conditions, during permit issuance. The RFI usually follows an agency-approved RFI plan. If the RFI plan is incorporated into a permit by a permit modification, the public will have an opportunity to comment on the scope and schedule of the RFI during the modification process. The public often has valuable institutional knowledge that can be tapped and can strengthen the RFI (e.g., citizens may have observations of historic stormwater pathways; former workers can share past waste handling practices, such as poor waste disposal or facility giveaways of materials to be used as local fill with constituents).

If corrective action is conducted under a RCRA § 3008(h) order, the public should be given the opportunity to review and comment on the scope of the RFI and RFI conditions when the order is issued or when the RFI work plan is approved.

RFIs can often involve numerous rounds of field investigation and can take months or years to complete. During the RFI process, it may be necessary to change the RFI requirements or modify the RFI schedule to react to new information. When corrective action takes place in the context of a RCRA permit, the public has an opportunity to comment on changes to RFI conditions and schedules during the permit modification process. When corrective action is conducted under an order, the public's opportunities to review changes to RFI conditions and schedules should be consistent with the opportunities available under a permit.

The facility should use and update its mailing list throughout the corrective action process to keep community members informed. Ideally, such a mailing list was compiled during the initial stages of the permitting process or preparation of the corrective action order. The overseeing agency or facility owner/operator also may want to consider providing similar information online through its website or social media.

In some cases, (e.g., where there is a high level of public interest in corrective action activities), the overseeing agency will create an information repository to ensure adequate public involvement. When corrective action takes place under a RCRA permit, the agency can require the facility to establish a repository under 40 CFR § 270.30(m). A repository at the RFI stage will provide access to information from an early stage in the process, though the agency has the discretion to use this provision at any stage in

the permitting or corrective action process. If the agency decides to require a repository, it will direct the facility to notify the public of the repository, including the name and phone number of a contact person. The facility should consider supplementing all required notifications with web-based information, such as

Ronnie Environmental Technologies Corporation, East Palo Alto, California

Use of creative communication methods: This former hazardous waste management facility was demolished and undergoing RCRA correction action. Creative community outreach methods included sponsoring a display booth at the local Cinco de Mayo festival and creating two videos about the site's cleanup that aired on local news broadcasts.

social media posts or notifications on its website.

Additional Activities

The start of the RFI usually marks the beginning of highly visible, ongoing corrective action activities at a facility. When RFIs begin, it generally is appropriate to reevaluate community concerns and the level of public participation, and to revise the public participation plan accordingly. Undertaking such efforts early in the process before community concerns and issues become overwhelming will be beneficial in the end.

One way to keep in touch with the community is to develop and distribute fact sheets throughout the RFI process. It is a good idea to issue a fact sheet before the RFI begins to explain the investigation's purpose and scope, and another fact sheet after the RFI is complete to report the investigation results. These fact sheets also may be made available online and through social media.

EPA encourages all facilities to make the results of the RFI readily available to interested stakeholders. They may distribute this information by sending a summary of the RFI report to the facility mailing list or through a fact sheet, project newsletter, social media or website. The full report should be available for review in an information repository, if one exists, or through some other method that is convenient for the public. The facility owner/operator should also provide notice to all adjacent landowners and other people who may have been affected by releases of contamination via air or groundwater from the facility. EPA recommends that the owner/operator follow the provisions in the 1990 RCRA corrective action regulatory proposal (proposed § 264.560(a) and (b)) for notifications for discoveries of contamination (see 55 FR 30882).

Informal meetings or workshops held by the facility, the permitting agency, or public interest groups can also provide valuable forums for discussing community concerns.

Interim Measures

Interim measures are actions and activities used to control or abate ongoing risks to human health or the environment at a facility in advance of final remedy selection. Interim measures may be required in situations where contamination poses an immediate threat to human health or the environment. They also may be required to prevent further environmental degradation or contaminant migration prior to implementing the final remedy. Interim actions may occur at any point in the corrective action process; however, they are often implemented during the RFI or CMS. Recently, EPA has increasingly emphasized the importance of interim measures and site stabilization in the corrective action program.

Required Activities

When corrective action is proceeding under a RCRA permit, the permit may identify specific interim measures or stabilization measures (if they are known at the time of permit issuance), or may have general

conditions that govern when interim measures might be required during the corrective action. In either case, the public can comment on the interim measures strategy in the draft permit as part of the permitting process.

When corrective action is proceeding under a RCRA § 3008(h) order, the public should have the opportunity to comment on specific interim measures or general interim measure conditions when the order is issued, or in a manner that is consistent with the opportunities available when corrective action takes place under a permit.

Additional Activities

If a facility owner/operator or the permitting agency anticipates that an early interim action will be the only cleanup step taken over a significant period, the facility or agency should inform the public of its plan. It should then receive feedback (e.g., via public meetings, written comments, a website, or social media), unless the immediacy of the situation does not allow for feedback. The facility and the agency should announce a contact person to provide information, and respond to inquiries about the action. Agencies and facilities may find Superfund guidance on removal actions useful in the RCRA context (see [HYPERLINK "http://semspub.epa.gov/src/document/HQ/100000070"], Chapter 4).

It is a good idea to keep the public informed of such actions by issuing fact sheets, holding informal meetings, or posting updates online and on social media. Because interim measures can take place at any stage in the corrective action process, the facility may need to incorporate these activities into all stages of its public involvement program.

CMS – Evaluation of Remedial Alternatives

When the need for corrective measures is verified, the facility may be required to perform a CMS to identify and evaluate potential remedial alternatives. When the agency uses performance standards or a similar approach, or the preferred remedial alternative is obvious (e.g., when EPA has issued a presumptive remedy that is appropriate to site-specific conditions), it may not be necessary to submit a formal CMS.

Required Activities

When corrective action is proceeding under a permit, the permit schedule of compliance may already include conditions that specify when a CMS is warranted; the public can comment on these draft permit conditions at the time of permit issuance. The RFI and CMS phases may last several years depending on the complexity of the facility. Significant changes to the scope of CMS requirements as specified in the permit may be considered Class 3 permit modifications, requiring significant public involvement. Changes to the CMS schedule or CMS details are typically considered either Class 1 or 2 permit modifications.

Public participation during corrective action under a RCRA § 3008(h) order should be consistent with public participation under a permit. The public should have the opportunity to review and comment on the scope of the CMS and CMS conditions when the order is issued or when the CMS work plan is approved.

Additional Activities

EPA emphasizes that it expects facility owners/operators to recommend a preferred remedy as part of the CMS. While there is no formal requirement for public participation at this time, EPA strongly encourages the facility to present its preferred remedy to the community before formally submitting it to the agency. The facility should seek community input through an informal meeting, availability session, social media, or another method that encourages dialogue. This early input is likely to improve many preferred remedies

ED_002087_00000765-00061

and make them more agreeable to communities. It also will make the facility and the overseeing agency aware of community concerns and ways to address them.

Holding workshops and informal public meetings about the CMS process, remedies being considered, and facility activities will keep the community involved and informed. Fact sheets distributed at significant milestones during the CMS can keep the community abreast of progress. These fact sheets also may be made available online or through social media.

The agency and facility should provide the name and telephone number of a contact person. The agency or facility may consider establishing a dedicated hotline, website or social media account to answer frequently asked questions. The mailing list, local newspapers, and social media are good ways to advertise availability of the new hotline or web-based forum.

Remedy Selection

Following receipt of a recommendation for a preferred remedy from the facility owner/operator, the overseeing agency reviews the preferred remedy and other remedial alternatives and decides to tentatively approve the preferred remedy, tentatively select a different remedy, or require additional analysis of remedial alternatives. The tentatively selected remedy will then undergo public review and comment, usually in the form of a proposed modification to the facility's permit or corrective action order. Following public review, the agency responds to public comments and then modifies the facility permit or corrective action order to incorporate the remedy.

Delfasco Forge Facility, Grand Prairie, Texas

Principles such as honesty, inclusion, and trust: Trichloroethylene (TCE) from this facility contaminated the groundwater and vapors migrated through the soil and into numerous homes. Much of the community engagement involved door-to-door visits with translators on weekends and during evenings to reach community members working multiple jobs. Through frequent contact, EPA formed a strong relationship with the community, and community members even occasionally asked staff members to stay for dinner at their homes.

Required Activities

When corrective action is proceeding under a permit, public review and comment on the tentatively selected remedy generally use the procedures of 40 CFR § 270.41 for agency-initiated permit modifications. For such a modification, 40 CFR § 270.41 requires the same level of public participation as a draft permit. The permitting agency must release the proposed modification for public review and issue a public notice announcing that release. The agency must publish this notice in a major local newspaper, broadcast it over local radio stations, and send it to all people on the mailing list.

Agency staff also must prepare a fact sheet or statement of basis to explain the proposed modification and the significant factual and legal reasons for proposing the remedy. The statement of basis describes the proposed remedy, but does not select the final remedy for a facility. This approach allows for consideration of additional information during the public comment period.

Following the comment period, public comment or additional data may result in changes to the remedy or in another choice of remedy. After the agency has considered all significant comments from the public, the final decision—selecting the remedy or determining the need to develop another option—is documented in the response to comments.

A 45-day public comment period on the draft permit modification follows publication of the public notice. The comment period provides the public with an opportunity to comment in writing on conditions contained in the draft permit modification. If information submitted during the initial comment period

appears to raise substantial new questions concerning the draft permit modification, the agency must re-open or extend the comment period.

The public may request a public hearing on the draft permit modification. If a hearing is requested, the agency must give a 30-day advance notice to the community, stating the time and place of the hearing. The agency director has the discretion to schedule a public meeting or hearing even if the community does not request one. In some cases, scheduling a public hearing before the public requests one may save valuable time in the modification process and demonstrate a willingness to meet with the community to hear its questions and concerns.

After the public comment period closes, the agency must review and evaluate all written and oral comments and issue a final decision on the permit modification. The agency must then send a notice of decision to the facility owner/operator and any people who submitted public comments or requested notice of the final decision. The permitting agency must also prepare a written response to comments that includes a summary of all significant comments received during the public comment period, and an explanation of how the final permit modification addressed them or why they were rejected. The response to comments must be available through the administrative record and the information repository, if one was established, and must be sent to the facility and all people who submitted comments or requested a copy of the response.

When corrective action is proceeding under a RCRA § 3008(h) order, the public's opportunity to review and comment on tentatively selected remedies should be consistent with the opportunity that would be available if the corrective action were conducted under a permit. At a minimum, this opportunity should include publishing a notice and a brief analysis of the tentatively selected remedy (a statement of basis) and making supporting information available. It also should include providing a reasonable opportunity for submission of written comments; holding a public hearing or public meeting, if requested by the public or determined to be necessary by the overseeing agency; preparing and publishing responses to comments; and publishing the final remedy decision and making supporting information available. Additional guidance is available in [HYPERLINK "http://nepis.epa.gov/Exe/ZyNET.exe/9100UEY2.txt?ZyActionD=ZyDocument&Client=EPA&Index=1986%20Thru%201990&Docs=&Query=&Time=&EndTime=&SearchMethod=1&TocRestrict=n&Toc=&TocEntry=&QField=&QFieldYear=&QFieldMonth=&QFieldDay=&UseQField=&IntQFieldOp=0&ExtQFieldOp=0&XmlQuery=&File=D%3A%5CZYFILES%5CINDEX%20DATA%5C86THRU90%5CTXT%5C00000024%5C9100UEY2.txt&User=ANONYMOUS&Password=anonymous&SortMethod=h%7C-&MaximumDocuments=1&FuzzyDegree=0&ImageQuality=r75g8/r75g8/x150y150g16/i425&Display=p%7Cf&DefSeekPage=x&SearchBack=ZyActionL&Back=ZyActionS&BackDesc=Results%20page&MaximumPages=1&ZyEntry=1"].

Additional Activities

The agency, public interest groups, or facility should consider holding workshops or informal meetings about the proposed remedy during the public comment period. These discussion sessions can be especially useful when information about corrective measures in a draft permit modification is complex or technical, or when the level of community concern is high.

(CMI) – Remedy Implementation

Once the overseeing agency modifies the permit or corrective action order to include the selected remedy, the facility must begin to implement the remedy. Remedy implementation typically involves detailed remedy design, remedy construction, and remedy operation and maintenance, called a Corrective Measures Implementation, or CMI. CMI is conducted in accordance with a CMI plan that has been approved by the overseeing agency.

Required Activities

When corrective action is proceeding under a permit, the public will have an opportunity to comment on CMI conditions and schedules during the permit modification for remedy selection, or when the permit is modified to incorporate the CMI plan. Significant changes to the scope of CMI may be considered Class 3 permit modifications. Changes to the CMI schedule typically are considered either Class 1 or Class 2 permit modifications.

When corrective action is proceeding under a RCRA § 3008(h) order, the public's opportunity to comment on CMI conditions and schedules should be consistent with the opportunities if corrective action were taking place under a permit.

Additional Activities

Remedy implementation will often involve highly visible activities, such as the construction of new on-site treatment and containment systems, or the staging and transportation of large volumes of materials. These activities may result in increased levels of public interest, which already may be high due to the public's participation in remedy selection.

EPA recommends that the facility notify all individuals on the mailing list when the construction plans and specifications are available for public review. If the facility established an information repository, the plans should go in the repository; otherwise, the facility should place the plans in a convenient location with public access, and consider posting these plans online.

Because the corrective action process can take years to complete, additional public participation activities may be appropriate during CMI to inform the community of the progress of the remedial action, especially if the public shows concern over the pace or scope of the cleanup operations. It may be useful to release periodic fact sheets to the community about progress of the cleanup operations. The facility may want to establish a website, blog or social media account where it can post these updates. It also may hold an availability session or open house near or at the facility to demonstrate or explain remedy activities. To supplement these activities, or when onsite sessions are not feasible, the facility may also post photos or videos online to demonstrate progress.

Pharmacia and Upjohn Company (now owned by Pfizer) New Haven, Connecticut

Involving community members in redevelopment plans: Pfizer worked closely with the community and implemented a stakeholder-driven reuse planning process that resulted in agreement to create an ecological preserve for the future site. Close collaboration with the Quinnipiac River Watershed Association, North Haven Land Trust, Yale University and others resulted in numerous public meetings and two open houses at the site.

Completion of the Remedy

Once corrective measures are complete, the overseeing agency will either terminate the corrective action order or modify the permit to remove the corrective action schedule of compliance. Decisions regarding completion of corrective measures can be made for an entire facility, for a portion of a facility, or for a specified unit or release. EPA policy is for the public to have an opportunity to review and comment on all proposals to complete corrective action.

Required Activities

When corrective action is proceeding under a permit, proposals to complete corrective measures should follow the procedures for Class 3 permit modifications.

ED_002087_00000765-00064

When corrective action is proceeding under a RCRA § 3008(h) order and a proposal to complete corrective measures is issued, the public should have notice and comment opportunities that are consistent with the opportunities under the Class 3 permit modification procedures.

Additional Activities

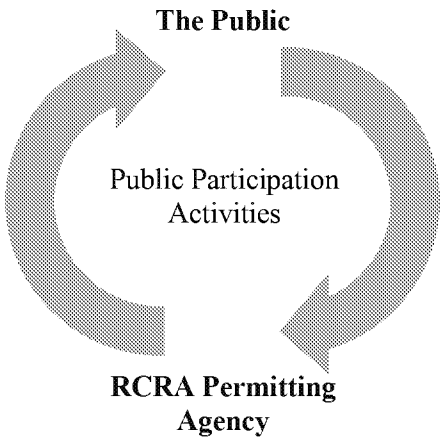
In some cases, hazardous wastes or hazardous constituents will remain in or on the land after completion of corrective measures. When this occurs, the overseeing agency may require the facility to record a notation in the deed to the facility property regarding the types, concentrations and locations of such waste or constituents.

ED_002087_00000765-00065

CHAPTER 5: RCRA PUBLIC PARTICIPATION ACTIVITIES

Introduction

This chapter provides detailed descriptions of dozens of public participation techniques—required and optional, formal and informal. It explains the public participation methods mentioned in the previous chapters and provides information on additional methods. It covers a variety of activities to provide public participation options to fit any community and RCRA process.



While the permitting agency may conduct many of these activities, all stakeholders can learn more about the different kinds of activities in this chapter. This list is not exhaustive. Stakeholders should consider which of these, or any other public participation activities, best suit a particular situation.

The chapter presents a series of tables that outline required and optional activities to facilitate public participation. For each activity, the exhibit describes the activity, notes the RCRA processes when the activity is most likely to be used, summarizes its required and/or recommended use, provides legal citations where applicable, and identifies additional resources.

Public Participation Plans

As described in Chapter 2, EPA strongly recommends the creation of public participation plans for RCRA facilities, although such plans are not required. Public participation plans, which the permitting agency typically creates, serve as the agency's schedule and strategy for public participation during the initial permitting process, significant corrective actions, and other permitting activities at facilities receiving high levels of public interest. Development of a public participation plan begins by assessing the level of community interest and the types and prevalence of community concerns regarding a RCRA facility. This assessment should be based on a variety of sources, possibly including community exchanges (e.g., interviews, canvassing and public meetings), file searches, reviews of past media coverage, and community assessments completed by third parties. The plan then proposes activities to involve the community in the RCRA process.

For permitting activities and corrective actions that do not raise a high level of public interest in the community, the public participation plan may be a simple document outlining the regulatory requirements. Major permitting activities and other high-interest activities will require a more detailed plan with participation opportunities that exceed the requirements.

ED_002087_00000765-00066

Assessing the Community

Public participation activities should fit the diversity, character, and culture of the affected community.

Before designing a public participation plan, the permitting agency should perform an extensive community assessment. Each community is different and has its own way of spreading information to interested people. Key institutions and groups also vary from place to place, as do socioeconomic status, culture and traditions, political and religious activity, and values. Understanding these community characteristics is essential to facilitating successful public participation. Community assessments should help agencies, facility owners/operators and public interest groups identify public participation activities that are useful and meaningful for particular communities.

While community assessments are particularly important when creating public participation plans, they can also be useful at other points in the RCRA permitting and corrective action processes. Assessments are essential tools for facility owners/operators who are applying for RCRA permits (including interim status facilities), seeking major permit modifications, or undertaking significant corrective actions. Assessments also may be appropriate at any stage during the life of a facility, especially in situations where the level of public interest seems to be changing. In some cases, permitting agencies and facility owners/operators have cooperated to conduct joint outreach activities. While the agency presence may make community members more comfortable than working with representatives of the facility alone, EPA does not recommend such cooperation as a rule because other stakeholders may perceive that the agency is taking sides. Permitting agencies should use their discretion and maintain the agency's proper role during any such activities.

The permitting agency or facility should use community assessments to determine the level of public interest in a facility and the composition and scope of the community segments most affected by the facility.

- **Determining the level of public interest:** While some RCRA processes do not generate much interest or concern among community members, others evoke strong interest and require a much greater public participation effort. This level of interest typically depends on factors such as the type of RCRA action and its implications for public health and welfare; the current relationships between the community, facility, regulatory agency, and other stakeholders; and the larger economic and social context in which the RCRA action takes place. By helping characterize the level of public interest in a RCRA action, the community assessment can help determine the appropriate level of public participation for the process. Exhibit 2-2 in Chapter 2 provides a guide for determining whether public interest in a facility is likely to be low, medium or high.
- **Identifying the affected community**: Public participation activities should focus first on people with a direct interest in a RCRA facility. It is often impossible to identify everyone who is directly affected by a RCRA action. However, these populations typically live in the general vicinity of the facility; have the potential to be affected by releases to groundwater, air, surface water or the local environment (e.g., through game, livestock or agriculture, or damage to natural areas); or live on or near roads that will have increased traffic from vehicles carrying hazardous waste.

ED_002087_00000765-00067

Methods of Community Assessment

EPA recommends the following steps for gathering information about the community:

- Review newspaper articles and community publications (including web-based publications) related to the RCRA action.
- Speak with colleagues or anyone who has worked with the community in the past.
- Contact local companies, universities, government agencies, civic groups, and public interest organizations.
- Understand the community's visions and values for the future.
- Determine existing and potential community concerns.
- Talk to the community to understand its concerns and record its oral history of the community's health.
- Identify populations with health sensitivities and minority and/or linguistically isolated stakeholders.
- Identify and address quality of life concerns.
- If there seems to be a high level of interest in the facility, conduct a broad range of community interviews, including interviews with the facility's immediate neighbors, members of community organizations, and any individuals who have expressed interest.

Planning for Participation

After identifying the major community concerns and relevant community characteristics during the community assessment, the agency should draft a public participation plan that fulfills these elements of a public participation framework:

- Communicating with community members through mailing lists, interviews, online media and other information sources.
- Communicating with the media.
- Communicating with elected officials.
- Planning and conducting public participation events.
- Coordinating public participation with other stakeholder groups and community events.
- Preparing and distributing additional resources such as fact sheets, public notices, news releases, meeting handouts, presentations and online or social media updates.

After identifying activities for each of these duties, the agency should construct a strategy and schedule for implementing them. Creating a detailed schedule of planned public participation activities will both help staff ensure that they stay on track with public participation and let the public know what type of activities to expect throughout the RCRA process. The timeline for these activities should correspond to the completion of major steps in the RCRA process (e.g., application submittal, draft permit issuance, completion of the RFI). These are the times community members are most likely to have new questions or concerns.

Start early and plan ahead: public interest in a facility can grow rapidly and unexpectedly.

Although the permitting agency should take the lead writing and revising the public participation plan, it should include input from

other stakeholders. It may be useful for the agency to work with other stakeholders during plan development to find opportunities for future cooperation in public engagement activities. Such cooperation can be an effective way to implement public participation events on a limited budget.

Whether or not the public is involved in creating the initial drafts of a public participation plan, the permitting agency should make the final plan available to the public for comment. Encouraging this input will help get the public involved early in the RCRA process. The public's input may be a useful source for practical tips on how to tailor public participation events and communication methods to the community.

Other Required and Optional Public Participation Activities

The following exhibits describe a range of required and optional activities to facilitate public participation in RCRA processes.

Exhibit 5-1 focuses on public notices, which are official announcements of proposed agency decisions or facility activities and are required at many points in the RCRA process. These notices should provide the public with an opportunity to comment on a proposed action and should represent a good faith effort to reach all segments of the affected community. Examples of public notices include newspaper advertisements, newspaper inserts, notices in free publications or existing newsletters, public service announcements, broadcast announcements and advertisements, signs and bulletin boards, phone trees, and social media.

Exhibit 5-2 describes other required public participation activities, and Exhibit 5-3 describes optional activities. For each activity, the exhibit describes the activity, outlines its required or recommended use, provides a legal citation if applicable and identifies additional resources.

Although the agency and facility should always seek to provide many opportunities for public participation, the public will sometimes offer unsolicited but helpful information via phone calls, letters, email, social media posts or office visits. Being attentive and receptive to unsolicited information can help improve the facility's outreach program and in turn increase credibility.

How to Construct a Public Participation Plan

EPA recommends that the public participation plan contain the following sections:

- Executive summary.
- Introduction/overview.
- Facility history.
- Description of the RCRA action.
- Summary of community interviews and concerns, which also may include the presence of other regulated facilities, Superfund sites, brownfields, or sources of pollution in the area
- Description of any early consultation (e.g., interviews with group leaders) that informed the plan.
- A list of the major issues likely to emerge during the RCRA process.
- An estimation of the level of public interest that the RCRA process is likely to generate.
- Public participation activities and schedule.
- A list of the agencies, groups, and key individuals most likely to be interested in the process.
- A list of key contacts.
- Information on meeting and repository locations, if applicable.

Exhibit 5-1. Requirements and Recommendations for Public Notices

ED_002087_00000765-00070

STAKEHOLDER	RELEVANT RCRA PROCESSES	SPECIFICATION REQUIREMENTS	OTHER RECOMMENDATIONS FOR USE	ADDITIONAL RESOURCES

Permit Applicant	Permit application Permit modification Corrective action Closure and post-closure of interim status facilities Permitted and interim status combustion facilities	The permitting agency must give official public notice: • When issuing a draft permit, receiving a permit application, holding a public hearing, or granting an appeal, as a notice to all relevant units of federal and local government, the applicant, and facility mailing list, as local radio broadcast, and as a publication in a local newspaper (40 CFR §§ 124.10, 124.12, 124.19). • If a modification request is granted or denied. - Class 1: as a notification to facility mailing list. - Class 2 or 3 (including automatic Class 2): as a notification to facility mailing list and notice to all relevant units of state and local government. • During the trial burn stage at permitted and interim status combustion facilities (40 CFR §§ 270.62(b) and (d), 270.66(d)(3) and (g)). • When an interim status facility undergoes closure or post-closure (40 CFR §§ 265.112(d)(4), 265.118(f)).	• EPA recommends seeking community input to determine which information pathways will be most effective for giving public notice. • The permitting agency may also want to use public notices when it is establishing mailing lists or at other points throughout RCRA processes, as well as to determine what languages other than English may help the message reach as many people as possible. • In addition to required public notices, the agency or facility owner/operator may want to issue notices online (e.g., via email, websites, or social media).	[HYPERLINK "http://www.epa.gov/superfund/community/pdfs/toolkit/33publnot.pdf"] [HYPERLINK "http://www.michigan.gov/documents/deq/deq-owmrp-hws-2015-07-15_USE_565_Public_Notice_494453_7.pdf"] [HYPERLINK "https://fortress.wa.gov/ecy/publications/documents/1504012.pdf"] [HYPERLINK "https://www.epa.gov/dc/notice-intent-extend-public-comment-period-draft-phase-i-ms4-permit-district-columbia"] [HYPERLINK "https://www.epa.gov/publicnotices/epa-decision-

STAKEHOLDER	RELEVANT RCRA PROCESSES	REGULATORY REQUIREMENTS	OTHER RECOMMENDATIONS FOR USE	ADDITIONAL RESOURCES
				add-72-waterbody-pollutant-combinations-north-carolinas-2016-section-303d"]
Prospective permit applicant and/or Facility owner/operator	Permit issuance Permit modification Corrective action	A prospective permit applicant or the owner/operator of a facility must issue a public notice (40 CFR 124.31): • To announce the pre-application meeting, as a display advertisement in a general circulation newspaper, a sign near the facility, and as a broadcast media announcement. The owner/operator of a facility must issue a public notice: • For permit modifications (40 CFR § 270.42): - Class 1: as a notification to facility mailing list. - Class 2: as a notification to facility mailing list and a newspaper notice. - Class 3: as a notification to facility mailing list and a newspaper notice. • As specified by the permitting agency if the facility is required to create an information repository (40 CFR § 124.33).		

Exhibit 5-2. Required Public Participation Activities

ACTIVITY	RELEVANT RCRA PROCESSES	REGULATORY REQUIREMENTS	OTHER RECOMMENDATIONS FOR USE	ADDITIONAL RESOURCES
Mailing Lists *Mailing lists can be important databases and tools for communication with the public.*	Permit issuance Permit modification Corrective action	• The permitting agency must establish and maintain the facility mailing list (40 CFR § 124.10(c)(1)(ix)). • The agency must develop the list by: a) Including people who request in writing to be on the list. b) Soliciting people for area lists from participants in past permit proceedings in that area. c) Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in regional- and state-funded newsletters, environmental bulletins, state law journals, or other publications.	• The permitting agency should develop the mailing list as soon as possible during the pre-application stage. • The mailing list should be updated at the beginning of corrective action and permit modification procedures. • The mailing list should include concerned community members; elected officials; appropriate federal, state, and local government contacts; local media; environmental groups; civic, religious, and community organizations; facility employees; and local businesses. • When information is distributed to the mailing list, it also may be useful to post the information online or distribute via social media.	[HYPERLINK "https://semspub.epa.gov/work/HQ/174705.pdf"]
Contact Persons/ Offices *The contact person or office is responsible for responding to inquiries from the public and the media.*	Permit issuance Permit modification Corrective action Permitted and interim status combustion facilities	• The permitting agency must designate a contact office for the agency and a facility contact in most public notices, including: - For draft permits (40 CFR § 124.10(d)). - For notices of intent to deny a permit (40 CFR § 124.10(d)). - For modifications initiated by the permitting agency (40 CFR § 270.41). - For notices of application submittal (40 CFR § 124.32(b)). - During the trial burn stage at permitted and interim status combustion facilities (40 CFR §§ 270.62(b) and (d); 270.66(d)(3) and (g)). • A permit applicant must provide a contact person for the facility in the public notice for the pre-application meeting (40 CFR § 124.31). - The facility must provide public notice that includes a contact at both the agency and facility when requesting a Class 2 or 3 permit modification (40 CFR §§ 270.42(b) and (c)).	• The permitting agency is required only to designate a contact office, but specifying a contact person and maintaining that person as the contact throughout the entire process may increase public trust. • Organizations should consider distributing lists of contact persons who are responsible for answering questions on certain topics. • The contact person also should consider creating forums to receive inquiries online or via social media (e.g., e-mail address, website, social media account).	[HYPERLINK "https://semspub.epa.gov/work/HQ/174723.pdf"]

ACTIVITY	RELEVANT RCRA PROCESSES	REGULATORY REQUIREMENTS	OTHER RECOMMENDATIONS FOR USE	ADDITIONAL RESOURCES
Fact Sheets / Statements of Basis *Fact sheets summarize the status of a permit application or corrective action, explaining the relevant factual, legal, methodological, and policy concern (40 CFR § 124.8).* *Statements of basis are typically shorter than fact sheets and summarize the basis for a decision by the agency, particularly in the corrective action program (40 CFR § 124.7).*	Permit issuance Permit modification Corrective action	• The permitting agency is required to develop a fact sheet (40 CFR § 124.8) or a statement of basis (40 CFR § 124.7): - To accompany a draft permit. - For draft decisions on Class 3 modifications and agency-initiated permit modifications. - For any major hazardous waste management facility, or facility that raises significant public interest. • RCRA permit fact sheets must contain (40 CFR § 124.8): a) A description of the type of facility or activity that is the subject of the draft permit. b) The type and quantity of wastes covered by the permit. c) A summary of the basis for the draft permit conditions and reasons that alternatives to the proposed standards are or are not justified. d) A description of the procedures for reaching a final decision, including start and end dates for the public comment period, an address to which comments can be sent, and procedures for requesting a public hearing. e) Contact information for additional information. • The permitting agency must create a statement of basis for every draft permit for which a fact sheet is not prepared (40 CFR § 124.7).	• While not required, fact sheets and statements of basis can be helpful: a) During technical review of the permit application. b) At the beginning of the RFI. c) When RFI findings are available. d) When corrective action is completed. e) When the notice of decision is released. • It is useful to distribute fact sheets prior to a public meeting or public hearing. • The permitting agency may also develop informal fact sheets that explain complicated aspects of the permitting process or provide technical information in simple language. • Statements of basis for corrective actions should: a) Reference the RFI and CMS reports. b) Summarize the environmental conditions at the facility as determined during the RFI. c) Identify the proposed corrective action. d) Describe the evaluated remedial alternatives and give a brief analysis that supports the proposed remedy.	[HYPERLINK "https://semspub.epa.gov/work/HQ/174696.pdf"] [HYPERLINK "https://web.archive.org/web/20130222132239/http:/homer.ornl.gov/sesa/environment/guidance/rcra/sb.pdf"] [HYPERLINK "http://www.michigan.gov/documents/deq/deq-owmrp-hwp-Dow-Main-Amendment-14-Draft-Fact-Sheet_412320_7.pdf"] [HYPERLINK "http://www.epa.gov/reg3wcmd/ca/va.htm"] [HYPERLINK "https://www.epa.gov/sites/production/files/2016-02/documents/technitrolinc_sb.pdf"]

ACTIVITY	RELEVANT RCRA PROCESSES	REGULATORY REQUIREMENTS	OTHER RECOMMENDATIONS FOR USE	ADDITIONAL RESOURCES

ED_002087_00000765-00076

ACTIVITY	RELEVANT RCRA PROCESSES	REGULATORY REQUIREMENTS	OTHER RECOMMENDATIONS FOR USE	ADDITIONAL RESOURCES
Public Meetings *Public meetings are opportunities for informal, two-way communication between the public and the permitting agency or facility. Unlike public hearings, public meetings are open to anyone, have no formal time limits on statements, and usually allow the permitting agency and/or facility to answer questions.*	Permit issuance Permit modification Corrective action	• Permit applicants are required to conduct a pre-application meeting, which can be a public meeting (40 CFR § 124.31). See Chapter 3 for more information on alternative formats for a meeting. • Permit holders must hold public meetings when requesting a Class 2 or 3 permit modification (40 CFR §§ 270.42(b) and (c)).	• Public meetings can sometimes complement public hearings, particularly by allowing informal discussion before a public hearing. • While the permitting agency or facility typically calls the public meeting, civic, environmental, and community organizations can do the same.	[HYPERLINK "https://semspub.epa.gov/work/HQ/174715.pdf"]

ACTIVITY	RELEVANT RCRA PROCESSES	REGULATORY REQUIREMENTS	OTHER RECOMMENDATIONS FOR USE	ADDITIONAL RESOURCES
Public Hearings *Public hearings are opportunities for the public to provide formal comments and oral testimony on proposed agency actions. They occasionally begin with introductory information from the permitting agency. All testimony becomes part of the public record.*	Permit issuance Permit modification Corrective action Closure and post-closure of interim status facilities	• Public hearings are required if requested by the public or if they might clarify relevant issues during: - The draft permit stage (40 CFR §§ 124.11, 124.12). - An agency-initiated modification (40 CFR § 270.41). - A Class 3 permit modification (40 CFR § 270.42(c)(6)). - Closure or post-closure of interim status facilities (40 CFR §§ 265.112(d)(4) and 265.118(f)). • Hearings must have at least 30-day advance notice.	• Public hearings also may be appropriate and useful at other times, particularly if there is a high level of community concern. • Consider informing the community of the hearing by posting a notice online or on social media.	
Public Comment Periods *Public comment periods are designated periods during which individuals can formally review and comment on the agency's or facility's proposed action or decision.*	Permit issuance Permit modification Corrective action Closure and post-closure of interim status facilities	• Public comment periods are required: a) Whenever the permitting agency issues a draft permit or an intent to deny a permit, with a duration of at least 45 days (40 CFR § 124.10). b) For requests for Class 2 and 3 permit modifications, with a duration of at least 60 days (40 CFR § 270.42). c) For agency-initiated permit modifications, with a duration of at least 45 days (40 CFR §§ 270.41, 124.10). d) During closure and post-closure for interim status facilities, with a duration of 30 days (40 CFR §§ 265.112(d)(4), 265.118(f)). • Comment periods cannot begin until public notice is given. These notices should include the comment period's start and end dates and information on where interested parties should send comments and requests for a public hearing (40 CFR § 124.10).	• EPA recommends that the permitting agency announce the public comment period in a local newspaper of general circulation and on local radio stations; websites, blogs, social media and other online resources may be useful as supplemental means of notification.	[HYPERLINK "https://semspub.epa.gov/work/HQ/174714.pdf"]

ACTIVITY	RELEVANT RCRA PROCESSES	REGULATORY REQUIREMENTS	OTHER RECOMMENDATIONS FOR USE	ADDITIONAL RESOURCES
Response to Comments *A response to comments document briefly describes and responds to all significant comments on the draft permit that were received during the public comment period; it also identifies all provisions of the draft permit or modification that were changed and the reasons for those changes (40 CFR § 124.17).*	Permit issuance Permit modification Corrective action	• The permitting agency must prepare a response to comments: - When it issues a final permit decision (40 CFR § 124.17). - When making final decisions on requested Class 2 and 3 permit modifications and agency-initiated permit modifications (40 CFR §§ 270.41, 270.42). • Response to comments documents must be sent to the facility owner/operator and each person who submitted written comments or requested notice of the final permit decision (40 CFR § 124.17). • All documents cited and new points raised in the response to comments must be included in the administrative record for the final permit decision (40 CFR § 124.17).	• The response to comments should also include a summary of public participation in the project and the extent to which community members' views informed decisions and project design.	[HYPERLINK "https://web.archive.org/web/20130222132239/http:/homer.ornl.gov/sesa/environment/guidance/rcra/sb.pdf"]
Notices of Decision *A notice of decision presents the permitting agency's decision regarding permit issuance, denial, or modification to include corrective action.*	Permit issuance Permit modification Corrective action	• The permitting agency must issue a notice of decision to accompany a final permit decision for a facility, a Class 3 modification decision, and a corrective action final remedy selection (40 CFR § 124.15). • The agency should send this notice to: a) The facility owner/operator (permit applicant). b) Any person who submitted written comments or requested notice of the final permit decision. • The notice must include a summary of the procedures for appealing the decision.	• Consider announcing the availability of the notice online or through social media, if appropriate.	

ACTIVITY	RELEVANT RCRA PROCESSES	REGULATORY REQUIREMENTS	OTHER RECOMMENDATIONS FOR USE	ADDITIONAL RESOURCES
Information Repositories *An information repository is a collection of documents related to a permitting activity or corrective action that is accessible to the public.*	Permit issuance Permit modification Corrective action	• While information repositories are not universally required of facilities, EPA regulations authorize the permitting agency to require a facility to create a repository during the permitting process (40 CFR § 124.33) or during the active life of the facility (40 CFR § 270.30).	• The permitting agency should assess the need for a repository based on the level of public interest, the type of facility, and the presence of an existing repository. • The permit applicant or permittee may select the location for the repository, as long as it is accessible to the public. The permitting agency will determine which documents the facility should include in the repository. • The applicant may find it useful to post the information in the repository online.	[HYPERLINK "https://semspub.epa.gov/work/HQ/174703.pdf"]

Exhibit 5-3. Optional Public Participation Activities for Use at Various Stages of the RCRA Process

ACTIVITY	RECOMMENDED USE	ADDITIONAL RESOURCES
Community Interviews *Community interviews are informal, face-to-face or telephone interviews held with community members, elected officials, community groups and other individuals to acquire information on their concerns and attitudes about a facility.*	• EPA recommends the use of community interviews as part of the community assessment, which usually takes place at the beginning of the permitting process, before major modifications, and before significant corrective actions. • Interviews allow agencies, facility owners/operators, and public interest groups to tailor regulatory requirements and additional activities to fit the needs of particular communities. • It is particularly important to use community interviews if a facility or action is controversial or has the potential to receive high levels of public interest. • Interviewees may include state and local agency staff and elected officials, representatives of community groups, area community members, local business representatives, local civic groups, neighborhood associations, educational and religious organizations, or nearby landowners and businesses. • Consider notifying interviewees when the public participation plan is available online.	[HYPERLINK "https://semspub.epa.gov/work/HQ/174740.pdf"]
Community Advisory Groups (CAG) *A CAG is a board of stakeholders that meets routinely to discuss issues involving a particular facility. CAGs typically advise the facility owner/operator or the permitting agency on RCRA activities.*	• EPA recommends the use of CAGs to promote direct communication among the community, the permitting agency, and the facility, and in particular, to provide a voice for affected community members and groups. • A CAG can be formed at any point in the permitting or corrective action process, but may be most effective in the early stages. • CAGs may or may not be appropriate in every situation, depending on these factors: a) The level of community interest and concern about the facility. b) Community interest in forming a CAG. c) The existence of groups with competing agendas in the community. d) EJ issues or concerns. e) The history of community involvement with the facility, or with environmental issues in general. f) The working relationship between the facility, the community, and the permitting agency. • While RCRA regulations do not require the use of advisory groups, 40 CFR § 25.7 outlines standards for advisory groups if they are used.	[HYPERLINK "https://semspub.epa.gov/work/HQ/174823.pdf"]

ACTIVITY	RECOMMENDED USE	ADDITIONAL RESOURCES
Telephone Calls with Specified Stakeholders *Telephone calls can gather information about the community and update state and local officials and other interested parties on the status of permitting or corrective action activities.*	• Telephone calls may be useful: a) In the early stages of the RCRA actions to identify key officials, community members, and other stakeholders who have a high interest in the facility. b) To gather information when face-to-face community interviews are not possible. c) When new and time-sensitive material becomes available. d) When there is a high level of community interest in the facility and it is important to keep key players informed.	
Informal Meetings with Other Stakeholders *Informal meetings are meetings with individual stakeholder groups that have particular interest in a permitting activity. They are held in an informal setting, such as a community member's home or a local meeting place.*	• EPA recommends informal meetings with stakeholders as a way to discuss community issues and concerns first-hand and to give community members the opportunity to ask questions in a comfortable setting. • Informal meetings are particularly useful: a) When the level of knowledge about particular issues varies widely among community members. b) When the level of tension is high, and large meetings may not be appropriate. c) When the community needs more personal contact to establish trust in the organization or the process. d) When groups want to discuss specific issues in which the community as a whole is not interested.	[HYPERLINK "https://semspub.epa.gov/work/HQ/174702.pdf"]
Focus Groups *Focus groups are small discussion groups selected to be random or to approximate the demographics of the community. A trained moderator typically leads the groups and draws out people's reactions.*	• Facility owners/operators may want to use focus groups as a complement to interviews during the community assessment or at the time of other important activities during the life of the facility. • The permitting agency should consider using focus groups to gauge public opinion before permitting activities or corrective action.	[HYPERLINK "https://semspub.epa.gov/work/HQ/174698.pdf"]
Facility Tours *Facility tours are scheduled trips to the facility for media representatives, local officials, and community members during which technical and public outreach staff can answer questions.*	• EPA recommends the use of facility tours to help familiarize the media, local officials, and community members with the issues and operations at a facility and the RCRA-regulated process underway. • Facility tours should be hosted only when it is practical and safe to have people on facility grounds. Tours must comply with facility safety regulations. When such a tour is not practical, virtual tours or videos showing activity and operations at the facility may be posted online.	[HYPERLINK "https://semspub.epa.gov/work/HQ/174708.pdf"]

ACTIVITY	RECOMMENDED USE	ADDITIONAL RESOURCES
Observation Decks *An observation deck is an elevated deck on the facility property that allows viewers to observe facility activities or corrective actions directly.*	• EPA recommends the construction of observation decks when: a) The level of community interest or concern in the facility is high. b) The community's understanding of facility operations will be enhanced by direct observation. c) It is physically possible to construct a deck in a safe and suitable location. d) Staff is available to supervise public use of the deck and answer questions. • If it is not feasible to construct an observation deck, consider posting photos or videos of the facility to a publicly accessible website.	[HYPERLINK "https://semspub.epa.gov/work/HQ/174708.pdf"]
On-Scene Information Offices *An on-scene information office is a trailer, small building, or office on or near the facility. Someone capable of responding to inquiries and preparing information releases should always staff this office.*	• EPA recommends the use of an on-scene information office: a) When there is moderate or high community interest in the site. b) During corrective actions. c) When cleanup involves complex technologies. d) When the community perceives a high level of health risk. e) When activities may disrupt the area surrounding the facility (e.g., traffic patterns). f) When the area around the facility is densely populated. • The on-scene staff person should support the telephone hotline or web-based forum and serve as the primary liaison between the public and the RCRA process.	
Briefings *Briefings are in-person informational sessions with key stakeholders, such as elected officials and members of public interest or environmental groups that have been involved in the process.*	• EPA recommends the use of briefings: a) To inform key stakeholders about the status of a permit application or corrective action. b) To provide stakeholders with materials like technical studies, results of technical and community assessments, and engineering designs. • Briefing key stakeholders is particularly important if an upcoming action might be controversial.	
Translations *Translations provide written or oral information in a language other than English to a community with a significant number of community members who are not proficient in English.*	• EPA strongly recommends using multilingual fact sheets, notices, and other information as appropriate to provide equal access to information throughout the RCRA process. • Translations also should be used for information posted to websites and social media.	[HYPERLINK "https://semspub.epa.gov/work/HQ/100000070.pdf"] (pg. 78) [HYPERLINK "https://semspub.epa.gov/work/HQ/174693.pdf"]

ACTIVITY	RECOMMENDED USE	ADDITIONAL RESOURCES
Project Newsletters and Reports *Project newsletters and reports can keep interested people informed about corrective action and permitting activities at a level of detail that is not available from the news media.*	• Newsletters should provide regular updates on the RCRA process and actions taking place at the facility in a reader-friendly, news-based format. • Project reports may include official technical reports or other environmental studies. • These documents should be sent directly to an updated mailing list of interested stakeholders, as well as posted online or on social media.	[HYPERLINK "http://www2.epa.gov/sites/production/files/2014-04/documents/wc-2-newsletter-december-2013-final.pdf"]
Presentations *Presentations are speeches, panel discussions, videos or slide shows held for local clubs, civic or religious organizations, school classes, or concerned community groups.*	• EPA recommends the use of presentations at any time during the RCRA process. EPA particularly recommends this when a major milestone in the process is reached. • Presenters should use visual aids and provide sufficient time for questions and answers following the presentation. • Presentations may be posted on relevant websites or social media accounts to promote the public's knowledge of the project.	[HYPERLINK "https://semspub.epa.gov/work/HQ/174711.pdf"] [HYPERLINK "https://semspub.epa.gov/work/HQ/174743.pdf"]
Exhibits *Exhibits are visual displays such as maps, charts, diagrams, photographs, or computer displays that explain topics such as RCRA processes, hazardous waste health risks, or proposed corrective actions, among others.*	• EPA recommends the use of exhibits to present information in an accessible and understandable way. Exhibits can be particularly useful when the information can be conveyed visually, when a display can enhance other forms of information being presented, or when staff time is limited and the audience is large. • Because of their visual nature, exhibits are also well suited for posting online or distributing through social media.	[HYPERLINK "https://semspub.epa.gov/work/HQ/174694.pdf"]
Information Tables *An information table is a table or booth set up at a meeting, hearing, or other event that is staffed by at least one person who is prepared to answer questions.*	• Information tables should provide pamphlets, fact sheets, brochures, or other materials, along with a sign-up sheet for interested people to add their names to the facility mailing list. Exhibits are also helpful additions to information tables. • Information tables are most useful at local events that attract a significant portion of the community.	

ACTIVITY	RECOMMENDED USE	ADDITIONAL RESOURCES
Workshops *Workshops are seminars or gatherings of small groups of people (usually between 10 and 30), led by a small number of specialists. In workshops, community members have an opportunity to comment on and ask questions about RCRA processes and hazardous waste issues.*	• EPA recommends the use of workshops to improve public understanding of permit conditions or hazardous waste problems and to identify primary community member concerns. • Workshops are particularly useful when the RCRA process involves technically challenging material. • Workshops may be useful before formal public hearings or during public comment periods. • Information from the workshop (e.g., videos of presentations, fact sheets) should be posted online or on social media.	[HYPERLINK "https://semspub.epa.gov/work/HQ/174730.pdf"]
Availability Sessions/Open Houses *Availability sessions and open houses are informal events held in a public location where people can talk to involved officials one-on-one.*	• In some cases, availability sessions and open houses can fulfill the pre-application requirements in 40 CFR § 124.31. • EPA recommends the use of availability sessions and open houses: a) When community members' schedules make it difficult to schedule meetings. b) When community members have widely varying interests or levels of knowledge. c) When an informal setting would enhance credibility with the community. d) When large crowds will make it difficult for some community members to raise questions. • The availability session or open house can involve representatives from all interested organizations (e.g., agency officials, facility staff, and leaders of civic organizations) and should display exhibits and other explanatory materials.	[HYPERLINK "https://semspub.epa.gov/work/HQ/174713.pdf"]
Question and Answer Sessions *Question and answer sessions give stakeholders an opportunity to discuss RCRA actions with knowledgeable staff.*	• EPA recommends the use of question and answer sessions to accompany presentations, briefings, or meetings. • Be sure to follow up by phone, e-mail, or letter for any questions that staff was not able to answer during the session.	
Telephone Hotlines and Web-Based Forums *A telephone hotline is a toll-free or local number that people can call to ask questions and obtain information on RCRA activities. Web-based forums may include websites or social media accounts that are similarly dedicated to receiving and answering questions from the public.*	• EPA recommends establishing a dedicated telephone hotline, website, or social media account when there is moderate or high community interest in the RCRA process, when literacy rates are low and written information must be supplemented, or when the community is isolated and has little opportunity for face-to-face contact with project staff. • The resource can be semi-permanent (i.e., available throughout the permit review or corrective action process) or temporary, for a single period of major community feedback. • Announce the resource in news releases to local newspapers, radio stations, and television stations, and in fact sheets, public notices, websites and social media posts.	[HYPERLINK "https://www7.nau.edu/itep/main/HazSubMap/docs/CERCLA/SuperfundCommunityInvolvementHandbook.pdf"]
Door-to-Door Canvassing	• EPA recommends going door to door when there is a high level of concern about the site, when scheduling group events is difficult, when the community has a low literacy rate or primarily speaks a language other than English, or when there is an emergency. • While going door to door, canvassers should provide fact sheets or other materials.	[HYPERLINK "https://semspub.epa.gov/work/HQ/174746.pdf"]

ACTIVITY	RECOMMENDED USE	ADDITIONAL RESOURCES
Door-to-door canvassing is a way to collect and distribute information by calling on community members individually.	• Be sure to canvass at a time when community members are likely to be at home, and bring a translator if a significant proportion of the population does not speak English.	
Surveys and Polls *Surveys and polls solicit types of feedback from a targeted audience. Surveys can be either oral or written, and they can be distributed to specific segments of the community or to a representative sample.*	• Facility owners/operators and the permitting agency may want to use surveys and polls to: a) Gauge public sentiment about constructing or expanding a facility, particularly at facilities that may be controversial. b) As a complement to direct community interviews. c) To determine if community members are receiving enough information about the RCRA activity. • Federal agencies are limited in their use of surveys by the Paperwork Reduction Act. Similar constraints may exist at the state level. • Social media and other websites also can be used to conduct the survey or poll.	
Attending Other Stakeholder Meetings and Functions *Permitting agencies, facilities, local governments, environmental organizations, and religious and civic groups may hold meetings during RCRA processes. Involved stakeholders can make an effort to attend the meetings of other groups.*	• EPA encourages stakeholders in RCRA processes to attend meetings held by other stakeholders, which can help provide useful insight into others' opinions and concerns. • Confirm that meetings are open to visitors and inform the host organization of expected attendance. Consider bringing fact sheets or other information to provide upon request.	[HYPERLINK "https://semspub.epa.gov/work/HQ/174710.pdf"] [HYPERLINK "https://semspub.epa.gov/work/HQ/100000070.pdf"]

Risk-Based Cleanups at Brownfield Sites

Introduction

Since its inception in 1995, EPA's Brownfields Program has grown into a proven, results-oriented program that changed the way contaminated property is perceived. Properties that once presented serious health and safety threats to the surrounding community and contributed to blight and economic decay are being transformed into community assets with tangible environmental, economic and social benefits. The legacy contamination of urban and suburban properties harks back to the Industrial Revolution and is pervasive across the country. Brownfields and other contaminated properties often are located in environmental justice communities where residents are disproportionately impacted, thus making cleanup and economic development especially critical.

EPA's Brownfields Program is designed to empower states, communities, tribes and other stakeholders by providing grants and technical assistance to assess, clean up, and sustainably reuse brownfields. While these EPA resources often provide critical "seed" money for a project, additional private- and public-sector investment also is needed to successfully remediate and redevelop these properties. These funding sources often include other local, state, and federal government programs as well as property owners, developers, investors, and nonprofit organizations.

There are numerous federal programs that can be leveraged to achieve these goals, but each of these programs is constrained by a unique set of statutory and regulatory requirements that govern how they can be applied. It is important, therefore, that federal agencies work together to identify areas where these programs can be aligned to achieve a common purpose and maximize the use of increasingly scarce federal resources.

Risk-based Brownfield Cleanups

Due to a variety of technical and financial considerations, cleanups rarely result in the removal of all contaminants to pristine conditions. Many brownfields, as well as other contaminated properties, are cleaned up under "risk-based" cleanup programs. Risk-based cleanup methods focus cleanup resources on the reduction of risk and harm prevention, based upon the intended (or restricted) reuse of a property. Risk-based cleanup standards consider the risks that contamination poses to human health and the environment, taking into account the site's anticipated future use (such as residential, recreational, industrial, or commercial), rather than requiring that cleanups meet the standards required for "unrestricted" use. As the term suggests, unrestricted cleanup standards require that any residual contamination remaining on a property be within acceptable health and safety limits without further engineering or institutional controls (discussed below). However, even cleanups that meet standards for residential use, which are generally the most stringent, do not necessarily meet the requirements for unrestricted use. For example, urban fill containing hazardous contaminants is ubiquitous in many cities and towns and may extend dozens of feet below the ground surface. The approved cleanup might involve the removal of the top layer of contaminated soil and replacement with clean fill, with restrictions against excavating below the clean fill layer. The important thing to remember is that restricted and unrestricted cleanups are designed to be safe for the intended use of the property. For restricted use, however, if that use changes additional cleanup might be necessary to ensure protectiveness.

The result of a risk-based cleanup may be that some level or amount of contamination is left on site. In such cases, engineering controls, institutional controls, or land use restrictions may be implemented to reduce human and environmental exposure to any remaining on-site contamination.

Framework for Risk-based Decision Making at Contaminated Sites

Many states use a risk-based decision making process or framework for determining cleanup requirements at contaminated sites. This involves identifying potential hazards, assessing exposure and toxicity, and characterizing the risk to human health and the environment to make an informed decision. While there is no universally defined process to conduct risk-based cleanups at contaminated sites, the following steps are usually implemented under most state programs:

Site Characterization: The first step is to collect information about the environmental conditions at a site and identify potential and existing contamination that might pose a threat to the local community and surrounding area. This can be accomplished via a Phase I and/or Phase II environmental site assessment, which often includes sampling and analysis. Standards for conducting a Phase I and Phase II are established by ASTM International. The ASTM E1517-13 standard for the conduct of Phase I environmental site assessments complies with EPA's All Appropriate Inquiries Rule.

Risk Assessment: Risk assessment is the process of estimating the nature and probability of adverse effects upon human health and the environment due to exposure to contaminated environmental media, now or in the future. An assessment of risk includes both the potential risks posed by the hazardous substances or chemicals found at a property, and the potential for humans and the environment to be exposed to such substances or chemicals. Risk assessment also involves establishing a safe level of risk for human populations potentially exposed to the contamination.

Cleanup Plan and Implementation: Based on the site investigation and risk assessment, a remedy that meets specific cleanup and redevelopment objectives is chosen. The cleanup generally is overseen, and conducted to the satisfaction of, state or federal regulatory authorities. Additionally, since 2013, the effectiveness of cleanup alternatives considered during an EPA-funded project are required to be informed by projected climate change risks.

Where contamination remains on site, engineering controls or institutional controls are usually necessary to limit human exposure, control off-site migration, and ensure that the land remains safe for its intended reuse.

- **Engineering controls** are engineered or constructed physical barriers used to contain or prevent exposure to contamination on a property. Examples include soil caps, sub-surface venting systems, mitigation barriers, or fences.
- **Institutional controls** are legal and administrative tools that include land use restrictions, easements, covenants, zoning restrictions, and posting advisories to increase community awareness of the site conditions. These controls often supplement engineering controls and reduce exposure to contamination by limiting land or resource use and guiding human behavior. Examples of institutional controls include zoning and land use restrictions that prevent certain types of land use at a site, prohibiting the use of heavy machinery at a site, or regulations restricting the use of groundwater.

Subsequent property owners are responsible for ensuring compliance with any land use restrictions, and maintaining any institutional and engineering controls associated with the property. Engineering controls such as asphalt caps and fencing should be inspected on a regular basis to ensure they remain protective of human health and the environment. In instances of long term operations of an active remedial measure, such as a pump and treat system, the property owner may be responsible for submitting monitoring reports to the agency with regulatory oversight on a periodic schedule. Institutional controls often take the form of deed restrictions or easements; property owners must maintain awareness of these restrictions and ensure they transfer to the new owner if the property is sold.

Risk–based Cleanup Success Stories

Roxy Movie Theater – Chanute, Kansas

A new movie theater was built on a 0.42-acre brownfield after a risk-based cleanup was completed on the blighted property in Chanute, Kansas. The site most recently was used as a parking lot. Previous uses also included a gas station, lumber yard, radiator shop, taxi stand, and used car lot. The site was assessed and cleaned up using two EPA Brownfields grants awarded to the Kansas Department of Health and Environment (KDHE). The Phase I environmental site assessment identified on-site and off-site sources of potential contamination. The Phase II assessment included soil and groundwater testing. While the soil and groundwater had petroleum contamination above state levels for residential reuse, the levels of contamination were below the threshold for non-residential uses. In October 2006, Chanute placed institutional controls on the property to prohibit future residential use and limit the use of groundwater, clearing the way for redevelopment. The new Roxy movie theater opened in March 2007.

Station Place – Portland, Oregon

Station Place is a multi-use development built on a 154-acre former rail yard and manufacturing site in Portland, Oregon. The site was cleaned up using a risk-based approach that included excavation and removal of soils along with the use of institutional and engineering controls in various locations to control exposure to residual soil and groundwater contamination. Using a risk-based cleanup approach allowed the site to be cleaned up based on future land use, made the remediation and redevelopment of the large site economically feasible, and resulted in the creation of a much-needed mixed-use development on a former brownfield.

The property was first developed in the 1890s as a rail and switching yard that was used until the 1980s for freight loading and unloading. A manufactured gas plant also operated on the property for about 30 years, starting around1900. The Portland Development Commission (PDC) bought the property in 1987. From 1990 to 2001, the site was the home of the City of Portland's Mounted Horse Patrol facility.

Site investigations were conducted to characterize the nature and extent of contamination in soil and groundwater across the seven lots that comprise the site. A risk assessment evaluated the potential level of risk to human health and the environment. Site contaminants included total petroleum hydrocarbons (TPH), polycyclic aromatic hydrocarbons (PAH), and metals, with potential worker exposure to soil and groundwater contaminants by direct contact.

The cleanup included excavation and removal of highly concentrated hot spot soils. Engineering controls including soil caps, a vapor barrier, and installation of a venting system at various locations on the site limit exposure to residual contamination. Institutional controls prohibit the consumption or use of groundwater. The use of a risk-based cleanup approach allowed various parts of the site to be cleaned up based on reuse plans, enabled redevelopment work to go forward on parts of the site while the cleanup was ongoing, and resulted in a successful mixed-use development.

Additional Resources

Risk-Based Decision Making and Underground Storage Tanks. EPA Office of Underground Storage Tanks.
https://www.epa.gov/ust/risk-based-decision-making-and-underground-storage-tanks-usts

Toward Improved Risk-Based Decision Making. Science and Decisions: Advancing Risk Assessment. National Research Council 2009.
http://www.nap.edu/catalog/12209.html

Understanding the Role of Institutional Controls at Brownfield Sites. Brownfields Road Map. Brownfields and Land Revitalization Technology Support Center.
https://brownfieldstsc.org/roadmapspotlight.cfm

Brownfields At-A-Glance: City of Chanute, KS
https://www.epa.gov/sites/production/files/2015-09/documents/chanute_ks_brag.pdf

ED_002087_00000766-00002

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/30/2018 6:57:21 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]
Subject: For Peter/Steven Review--Due COB Today: Administrator Cheat Sheets
Attachments: OLEM-4 Chem Facility RMP.Admin.TPs.docx; OLEM-1 CCR rule.AdminTPs.docx

Importance: High

Hi Peter and Steven,

In response to Troy's request below, attached are two single-paged cheat sheets on CCR and RMP that I prepared based on the latest talking points Peter put together – **for your review.**

Let me know if you have any comments or edits. Once I hear back from you, I'll send these on to Troy et. al. before COB today.

Thanks.
Jackie

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Hilosky, Nick
Sent: Monday, July 30, 2018 2:17 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Manges, Ellen <Manges.Ellen@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>
Subject: FW: INPUT NEEDED--Administrator Cheat Sheet
Importance: High

URGENT!

From: Lyons, Troy
Sent: Monday, July 30, 2018 2:14 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Chancellor, Erin <chancellor.erin@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>
Subject: INPUT NEEDED--Administrator Cheat Sheet
Importance: High

Team—the Administrator would like a single paged cheat sheet on the top issues most likely to be asked. To accommodate this request, please provide 1-2 talking points that the Administrator could read verbatim, if needed. **This needs to be completed by COB today so he can review this evening.** Let me know if I have missed any topics.

Please let me know if you have any questions.

OAR

- CAFE
- California Waiver--OAR
- Cross Border
- Kigali Amendment/Hydrofluorocarbons
- Small Refinery Exemptions
- New Source Review
- Once In, Always In

OCSPP

- TSCA Implementation
- Methylene Chloride
- Formaldehyde

OLEM

- CCR
- Risk Management Plan

ORD

- Secret Science
- Science Advisory Boards—Conflicts of Interest

OW

- PFAS
- Lead

Troy M. Lyons
Associate Administrator
Office of Congressional & Intergovernmental Relations
U.S. Environmental Protection Agency
Ex. 6 Personal Privacy (PP) (cell)

Message

From: Grantham, Nancy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=12A3C2ED7158417FB0BB1B1B72A8CFB0-GRANTHAM, NANCY]
Sent: 7/27/2018 9:19:38 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: FW: Follow-up Information from EPA re: Peter Wright

As discussed

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

From: Grantham, Nancy
Sent: Friday, July 27, 2018 5:13 PM
To: Rowan, Anne <rowan.anne@epa.gov>; Kelley, Jeff <kelley.jeff@epa.gov>; Kaplan, Robert <kaplan.robert@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: FW: Follow-up Information from EPA re: Peter Wright

Hi –

Please see below -- reporter wants to include this additional quote.

Please let me know if ok

Thanks much ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

From: Tabuchi, Hiroko [mailto:hiroko.tabuchi@nytimes.com]
Sent: Friday, July 27, 2018 4:51 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Konkus, John <konkus.john@epa.gov>
Subject: Re: Follow-up Information from EPA re: Peter Wright

Hi Nancy, I'd like to push to include these quotes. I think it shows an openness to acknowledge the earlier concerns raised by E.P.A., which were ultimately resolved -- thanks partly to Peter Wright's efforts.

"There was a time early on where the relationship between Dow and the EPA for a whole number of reasons was frayed, and became very contentious. The matter itself was very controversial."

"It was EPA's position at the time that the cleanup should proceed more expeditiously, and Dow had been doing an inadequate job."

"Through it all, I could talk to Peter one on one about positions or issues, and I found him to be professional in all his dealings."

Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 | hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi

On Fri, Jul 27, 2018 at 4:42 PM, Grantham, Nancy <Grantham.Nancy@epa.gov> wrote:

Hiroko: Thank you for taking the time to speak with us earlier. Below are quotes from your call with EPA Region 5 career staff as well as some additional on-the-record quotes we would encourage you to use in your article.

Additionally, attached are three important documents for your reference: July 2106 letter from the Michigan DEQ on Midland; February 28 letter from John Milner, Chair of the ABA's Section on Environment, Energy, and Resources, supporting Mr. Wright's nomination; Mr. Wright's recusal statement.

Finally, below the quotes is background material to answer your other questions.

Quotes to use on the record:

"During Mr. Wright's tenure as Dow's in-house counsel, the company ultimately reached agreement with EPA to use CERCLA/Superfund authority to clean up the rivers and bay. Mr. Wright's work was critical in reaching these agreements with EPA that accelerated work at the site." – Jeff Kelley, EPA Region 5, Office of External Communications

Leverett Nelson (current Regional Counsel):

"Peter was notable for his professionalism, candor, cordiality and grace under pressure, and also had a practical sense of what needed to be done in order to successfully conclude the negotiations."

On Denney allegations:

"I don't recall a correlation between that event and the course of negotiations."

"I don't remember that there was any particular impact on the remedial work at the site. There was other data that was available that was reliable."

"If we had to throw out some samples, it probably had zero impact on our assessment of environmental conditions at the site."

Additional quote from Leveret Nelson: **"EPA Region 5 has been working for many years on Superfund and other hazardous waste cleanups at Dow sites in Michigan, including the Midland plant and the Tittabawassee River. In my experience, the working relationship between EPA's legal team and Dow's legal team headed by Mr. Wright has been a positive one – professional, cordial and largely productive."**

Robert Kaplan (former Regional Counsel) (current Special Policy Advisor)

"Through it all, I could talk to Peter one on one about positions or issues, and I found him to be professional in all his dealings."

"In negotiations especially in high profile matters, sometimes the dynamics of the negotiators matter. What could have been even a more high pressure controversial superheated negotiation came to fruition because of the team dynamics. And that had a lot to do with Peter Wright."

On earlier EPA concerns over Dow actions: **"The record speaks for itself. The EPA took action to take it from state lead to Superfund. And from 2007 or so we decided to take a different path."**

On background from Robert Kaplan: **There is nothing about "lead negotiator." I hope the reporter used what we said about Peter's role. He was not Dow's overall lead. He was their lead LEGAL counsel. That's important in characterizing the role appropriately.**

Background on Dioxin from the EPA Office of Research and Development and Office of Land and Emergency Management:

The study cited in Mr. Wright's 13-year old article was the basis for EPA's health effects study on dioxin. Since then EPA finalized its non-cancer science assessment for dioxin in 2012. The findings showed that generally, over a person's lifetime, current exposure to dioxins does not pose a significant health risk.

Over the past several years EPA has worked to reduce emissions from all of the major industrial sources of dioxins. As a result of efforts by EPA, state governments and industry, known and measurable air emissions of dioxins in the United States have been reduced by 90 percent from 1987 levels. The largest remaining source of dioxin emissions is backyard burning of household trash. Most Americans have low-level exposure to dioxins. The non-cancer health assessment for dioxin could be considered in a range of agency activities, from establishing cleanup levels at Superfund sites, to reviewing the dioxin drinking water standard as part of EPA's regularly scheduled review process, to evaluating whether additional Clean Air Act limits on dioxin emissions are warranted.

Background on Peter Wright:

Peter Wright was born in Connecticut and raised in Los Angeles, CA. Before Dow, he worked as an attorney at Bryan Cave LLP and the Monsanto Company. He began his legal career with the environmental practice group of Baker & Daniels (now Fagre Baker and Daniels).

Background on Peter Wright's work:

The Dow Chemical Company's Midland Plant is a manufacturing facility that began operations in 1897. The facility is located on 1,900 acres abutting the Tittabawassee River. The past disposal of various chemicals at the facility resulted in high levels of dioxins and furans in the Tittabawassee River and downstream in the Saginaw River and Bay, as well as on the facility and in the City of Midland.

Pursuant to a Resource Conservation and Recovery Act (RCRA) permit issued by the Michigan Department of Environmental Quality (MDEQ), Dow had been conducting corrective actions, including extensive facility investigations and interim response activities to address the dioxins and furans at the Midland Plant and off-site. As the MDEQ-supervised RCRA corrective action remedial investigations progressed, EPA and MDEQ recognized that investigations and early actions to protect public health would benefit from federal resources, in addition to MDEQ's RCRA resources. After evaluating the facility, EPA and MDEQ agreed that CERCLA authority could be used to complete off-site cleanup work on the river systems and floodplains, while the RCRA corrective action program focused on off-site corrective action in the City of Midland and on-site corrective action for the Midland Plant site. Splitting the lead agency responsibilities allowed more work to occur concurrently.

Between 2007 and 2009, Dow conducted six time-critical removals under CERCLA authority, with EPA oversight. Mr. Peter Wright was Dow's lead counsel in the negotiation of the six settlements under which these cleanups were performed. EPA, MDEQ, and Dow entered into a settlement in 2010 for Remedial Investigation, Feasibility Study and/or Engineering Evaluation and Cost Analysis, and Response Design work (2010 ASAOC) which has provided the basis for further settlements to conduct non-time critical removal actions in the Tittabawassee River and its floodplain. Mr. Wright was Dow's lead counsel in the negotiation of the 2010 ASAOC. Between 2010 and 2017, EPA and Dow entered into seven separate CERCLA settlements under which Dow performed non-time-critical CERCLA removal actions at the site. Mr. Wright was Dow's lead counsel in the negotiation of the seven settlements under which these

cleanups were performed. During this same timeframe, off-site cleanup was completed in the City of Midland under the RCRA permit and Mr. Wright was also legal counsel for this work.

More information about the CERCLA cleanup at the Tittabawassee River, Saginaw River & Bay Site is available on EPA's website at https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0503250.

Nancy Grantham

Office of Public Affairs

US Environmental Protection Agency

202-564-6879 (desk)

Ex. 6 **(mobile)**

Message

From: Grantham, Nancy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=12A3C2ED7158417FB0BB1B1B72A8CFB0-GRANTHAM, NANCY]
Sent: 7/27/2018 9:19:21 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: FW: Follow-up Information from EPA re: Peter Wright
Attachments: deq-owmrp-hws_2016-07-21_Dow_724_MAS_CA_Report_Approval_Letter_CA_539484_7.pdf; Peter_Wright.pdf; Peter Wright.pdf

Importance: High

As discussed

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

From: Grantham, Nancy
Sent: Friday, July 27, 2018 4:42 PM
To: Tabuchi, Hiroko <hiroko.tabuchi@nytimes.com>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Konkus, John <konkus.john@epa.gov>
Subject: Follow-up Information from EPA re: Peter Wright
Importance: High

Hiroko: Thank you for taking the time to speak with us earlier. Below are quotes from your call with EPA Region 5 career staff as well as some additional on-the-record quotes we would encourage you to use in your article.

Additionally, attached are three important documents for your reference: July 2106 letter from the Michigan DEQ on Midland; February 28 letter from John Milner, Chair of the ABA's Section on Environment, Energy, and Resources, supporting Mr. Wright's nomination; Mr. Wright's recusal statement.

Finally, below the quotes is background material to answer your other questions.

Quotes to use on the record:

"During Mr. Wright's tenure as Dow's in-house counsel, the company ultimately reached agreement with EPA to use CERCLA/Superfund authority to clean up the rivers and bay. Mr. Wright's work was critical in reaching these agreements with EPA that accelerated work at the site." – Jeff Kelley, EPA Region 5, Office of External Communications

Leverett Nelson (current Regional Counsel):

"Peter was notable for his professionalism, candor, cordiality and grace under pressure, and also had a practical sense of what needed to be done in order to successfully conclude the negotiations."

On Denney allegations:

"I don't recall a correlation between that event and the course of negotiations."

"I don't remember that there was any particular impact on the remedial work at the site. There was other data that was available that was reliable."

"If we had to throw out some samples, it probably had zero impact on our assessment of environmental conditions at the site."

Additional quote from Leveret Nelson: **"EPA Region 5 has been working for many years on Superfund and other hazardous waste cleanups at Dow sites in Michigan, including the Midland plant and the Tittabawassee River. In my experience, the working relationship between EPA's legal team and Dow's legal team headed by Mr. Wright has been a positive one – professional, cordial and largely productive."**

Robert Kaplan (former Regional Counsel) (current Special Policy Advisor)

"Through it all, I could talk to Peter one on one about positions or issues, and I found him to be professional in all his dealings."

"In negotiations especially in high profile matters, sometimes the dynamics of the negotiators matter. What could have been even a more high pressure controversial superheated negotiation came to fruition because of the team dynamics. And that had a lot to do with Peter Wright."

On earlier EPA concerns over Dow actions: **"The record speaks for itself. The EPA took action to take it from state lead to Superfund. And from 2007 or so we decided to take a different path."**

On background from Robert Kaplan: **There is nothing about "lead negotiator." I hope the reporter used what we said about Peter's role. He was not Dow's overall lead. He was their lead LEGAL counsel. That's important in characterizing the role appropriately.**

Background on Dioxin from the EPA Office of Research and Development and Office of Land and Emergency Management:

The study cited in Mr. Wright's 13-year old article was the basis for EPA's health effects study on dioxin. Since then EPA finalized its non-cancer science assessment for dioxin in 2012. The findings showed that generally, over a person's lifetime, current exposure to dioxins does not pose a significant health risk.

Over the past several years EPA has worked to reduce emissions from all of the major industrial sources of dioxins. As a result of efforts by EPA, state governments and industry, known and measurable air emissions of dioxins in the United States have been reduced by 90 percent from 1987 levels. The largest remaining source of dioxin emissions is backyard burning of household trash. Most Americans have low-level exposure to dioxins. The non-cancer health assessment for dioxin could be considered in a range of agency activities, from establishing cleanup levels at Superfund sites, to reviewing the dioxin drinking water standard as part of EPA's regularly scheduled review process, to evaluating whether additional Clean Air Act limits on dioxin emissions are warranted.

Background on Peter Wright:

Peter Wright was born in Connecticut and raised in Los Angeles, CA. Before Dow, he worked as an attorney at Bryan Cave LLP and the Monsanto Company. He began his legal career with the environmental practice group of Baker & Daniels (now Fagre Baker and Daniels).

Background on Peter Wright's work:

The Dow Chemical Company's Midland Plant is a manufacturing facility that began operations in 1897. The facility is located on 1,900 acres abutting the Tittabawassee River. The past disposal of various chemicals at the facility resulted in

high levels of dioxins and furans in the Tittabawassee River and downstream in the Saginaw River and Bay, as well as on the facility and in the City of Midland.

Pursuant to a Resource Conservation and Recovery Act (RCRA) permit issued by the Michigan Department of Environmental Quality (MDEQ), Dow had been conducting corrective actions, including extensive facility investigations and interim response activities to address the dioxins and furans at the Midland Plant and off-site. As the MDEQ-supervised RCRA corrective action remedial investigations progressed, EPA and MDEQ recognized that investigations and early actions to protect public health would benefit from federal resources, in addition to MDEQ's RCRA resources. After evaluating the facility, EPA and MDEQ agreed that CERCLA authority could be used to complete off-site cleanup work on the river systems and floodplains, while the RCRA corrective action program focused on off-site corrective action in the City of Midland and on-site corrective action for the Midland Plant site. Splitting the lead agency responsibilities allowed more work to occur concurrently.

Between 2007 and 2009, Dow conducted six time-critical removals under CERCLA authority, with EPA oversight. Mr. Peter Wright was Dow's lead counsel in the negotiation of the six settlements under which these cleanups were performed. EPA, MDEQ, and Dow entered into a settlement in 2010 for Remedial Investigation, Feasibility Study and/or Engineering Evaluation and Cost Analysis, and Response Design work (2010 ASAOC) which has provided the basis for further settlements to conduct non-time critical removal actions in the Tittabawassee River and its floodplain. Mr. Wright was Dow's lead counsel in the negotiation of the 2010 ASAOC. Between 2010 and 2017, EPA and Dow entered into seven separate CERCLA settlements under which Dow performed non-time-critical CERCLA removal actions at the site. Mr. Wright was Dow's lead counsel in the negotiation of the seven settlements under which these cleanups were performed. During this same timeframe, off-site cleanup was completed in the City of Midland under the RCRA permit and Mr. Wright was also legal counsel for this work.

More information about the CERCLA cleanup at the Tittabawassee River, Saginaw River & Bay Site is available on EPA's website at https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0503250.

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING

RICK SNYDER
GOVERNOR

KEITH CREAGH
DIRECTOR

July 21, 2016

Mr. Steven C. Lucas
Senior Remediation Leader
The Dow Chemical Company
1790 Building
Midland, Michigan 48674

Dear Mr. Lucas:

SUBJECT: Approval of Revised Corrective Action Report, Midland Area Soils; The Dow Chemical Company, Michigan Operations, Midland Plant; Midland, Michigan; MID 000 724 724

The Department of Environmental Quality (DEQ), Office of Waste Management and Radiological Protection (OWMRP), has completed a review of the Corrective Action Report, Midland Area Soils (Report). The Report was submitted by The Dow Chemical Company (Dow) on January 8, 2016, and was most recently revised on May 6, 2016, in response to review comments from the DEQ. The Report was submitted as part of corrective action work required under Condition XI.B. of the Hazardous Waste Management Facility Operating License (License) renewal issued to Dow by the DEQ in 2015 pursuant to Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451), and the federal Resource Conservation and Recovery Act of 1976.

This Report was designed to be an important and major part of a final remedial action intended to represent the response action for direct contact to soils for Dow's off-site corrective action obligations under Conditions XI.B. and XI.J. of the License. Therefore, the DEQ conducted public participation pursuant to Condition XI.B.2. of the License and R 299.9511 of the Part 111 administrative rules, including a public comment period held from May 6, 2016, to June 20, 2016, and two public open houses held on June 6, 2016. No significant comments were submitted during the public comment period, and therefore, no significant changes were made to the draft Report. The DEQ will be sending the enclosed notice of this final decision to all persons on the facility mailing list and to the appropriate units of state and local government.

Based on the DEQ's review of the revised Report submitted on May 6, 2016, and since no significant public comments were obtained during the public comment period, the revised Report is hereby approved. In accordance with Condition XI.B.2. of the License, the approved Report becomes an enforceable condition of, and Attachment 18 to, the License. This approval constitutes a CA800 Ready for Anticipated Use Determination for Midland Area Soils.

The DEQ reserves its rights in regard to hazardous substances, as defined in Section 20101 of Part 201, Environmental Remediation, of Act 451, beyond those identified and addressed as a part of the revised Report. This approval does not convey any rights regarding unknown environmental conditions or compliance with other environmental laws and regulations.

Should you have any questions regarding this approval, please contact Mr. Al Taylor, of my staff, at 517-614-7335; taylora@michigan.gov; or DEQ, OWMRP, P.O. Box 30241, Lansing, Michigan 48909-7741; or you may contact me.

Sincerely,

DeLores Montgomery, Chief
Hazardous Waste Section
Office of Waste Management and
Radiological Protection
517-284-6565

Enclosure
cc: Mr. Jose Cisneros, U.S. Environmental Protection Agency
Ms. Virginia Himich, DEQ
cc/enc: Mr. Greg Rudloff, U.S. Environmental Protection Agency
Mr. Jim Sygo, DEQ
Mr. Steve Sliver, DEQ
Mr. Phil Roycraft, DEQ
Ms. Trisha Confer, DEQ
Mr. Al Taylor, DEQ
Dr. Deb MacKenzie-Taylor, DEQ
Mr. Art Ostaszewski, DEQ
Mr. Dan Dailey, DEQ
Corrective Action File – Midland Area Soils

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING

RICK SNYDER
GOVERNOR

KEITH CREAGH
DIRECTOR

Michigan Department of Environmental Quality
Office of Waste Management and Radiological Protection

NOTICE OF FINAL DECISION

Midland Area Soils, Corrective Action Report
The Dow Chemical Company, Michigan Operations, Midland Plant
MID 000 724 724
July 21, 2016

On June 6, 2016, the Michigan Department of Environmental Quality (DEQ), Office of Waste Management and Radiological Protection (OWMRP), held two public open houses to receive comments on the Revised Corrective Action Report, Midland Area Soils (Report) submitted by The Dow Chemical Company (Dow), Michigan Operations, Midland Plant, located at 1790 Building, Midland, Michigan 48674, on May 6, 2016, as part of corrective action work required under the Hazardous Waste Management Facility Operating License Renewal (License) reissued to Dow by the DEQ in 2015 pursuant to Part 111, Hazardous Waste Management, of Michigan's Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451), and the federal Resource Conservation and Recovery Act of 1976 (RCRA). The DEQ approved the Report on July 21, 2016.

A public comment period on the draft Report was announced in the Midland Daily News on May 6, 2016. Two public open houses were also held on June 6, 2016, from 3:00 p.m. to 5:00 p.m. and from 7:00 p.m. to 9:00 p.m. The public comment period extended from May 6, 2016 to June 20, 2016. On May 30, 2016, a notice regarding the two public open houses on the proposed Report also appeared in the DEQ Environmental Calendar, which is published every two weeks to provide public notice of pending public hearings, DEQ decisions, etc.

In accordance with Condition XI.B. of the License and R 299.9511 of the Part 111 administrative rules, the DEQ is required to respond to significant comments submitted during the public comment period and to describe any significant changes made to the draft Report. No significant public comments were received during the public comment period or at the public open houses. Therefore, no changes were made to the draft Report prior to approval.

The approved Report and Notice of Final Decision may be reviewed at the Reference Desk of the Grace A. Dow Memorial Library, 1710 West St. Andrews Street, Midland, Michigan, and the DEQ, Saginaw Bay District Office, 401 Ketchum Street, Suite B, Bay City, Michigan (contact Ms. Trisha Confer at 989-225-7968). The approved Report and related materials are also available at the DEQ, OWMRP, Constitution Hall, Atrium North, 525 West Allegan Street, Lansing, Michigan (contact Mr. Al Taylor at 517-614-7335) and at http://www.michigan.gov/deqdioxin under "Midland Area Soil Cleanup". Copies of the documents may be obtained for the cost of reproduction by sending your request to Mr. Al Taylor, DEQ, OWMRP, P.O. Box 30241, Lansing, Michigan 48909-7741 or taylora@michigan.gov. Depending upon the items requested, there may be a charge for reproduction and mailing costs.

This Notice of Final Decision is being sent to the individuals on the DEQ's Dow facility mailing list. To have your name added to or removed from the DEQ's Dow facility mailing list, please contact Ms. Amy Nevison at nevisona@michigan.gov or at 517-284-6562.

June 19, 2018

RECUSAL STATEMENT OF PETER WRIGHT

To: E. Scott Pruitt, EPA Administrator

I have consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This recusal statement formally notifies you of my continuing obligations to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I will sign upon entering federal service, as well as my own bar obligations.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

As stated in my ethics agreement sent to the Senate Environment and Public Works Committee, I agreed to forfeit all DowDuPont, Inc. stock options that are unvested at the time of my resignation from DowDuPont and to divest of my vested stock options and stock in DowDuPont, Inc. within 90 days of my confirmation. If I enter federal service prior to confirmation, then I will sell the stock within 90 days of joining EPA. Until I sell the stock, I understand that I am recused from participating personally and substantially in any particular matter, including sector-specific policies and regulations, that would have a direct and predictable effect on the following:

Name of Entity	Date when recusal ends
DowDuPont, Inc.	My financial conflict of interest continues for as long as I own stock in this company. Upon divestiture, I understand that I am still subject to additional restrictions pursuant to Executive Order 13770.
Chemical industry sector	continues for as long as I own stock in the chemical industry sector

Once I have sold the stock, I will update this recusal statement.

OBLIGATIONS UNDER EXECUTIVE ORDER 13,770

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I have ethics obligations with respect to any former employer during the preceding two years, as well as any organization in which I held a fiduciary duty. For purposes of this restriction, the entities that fall within the prohibition are DowDuPont Inc., the National Association of Wabash Men, and the Lambda Chi Alpha Home Association of Wabash College.

I understand that I am prohibited from participating in any particular matter involving specific parties in which any of the entities listed below is a party or represents a party. My recusal lasts for two years from the date that I join federal service. I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term "particular matters involving specific parties" is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term "open to all interested parties" means five or more parties who represent a diversity of interests rather than one shared perspective. I understand that such meetings do not have to be open to every comer, but should include a multiplicity of parties[1].

NAME OF ENTITY	DATE WHEN RECUSAL ENDS
DowDuPont Inc.	[two years from date of appointment], 2020
National Association of Wabash Men, Board of Directors	[two years from date of appointment], 2020
Lambda Chi Alpha Home Association of Wabash College, Board of Directors	[two years from date of appointment], 2020

ATTORNEY BAR OBLIGATIONS

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics.

SUPERFUND SITES

To avoid any concerns about my ethical obligations, I want to state clearly that I will not participate in any of the Superfund sites at which DowDuPont is a potentially responsible party (PRP). *See* attached lists generated by the Office of Site Remediation and Enforcement.

[1] As explained by the Office of Government Ethics, if an agency is holding a meeting with five or more stakeholders regarding a given policy or piece of legislation, I could attend such a meeting even if one of the stakeholders is a former employer or former client. *See* Office of Government Ethics (OGE) Advisory DO-09-011 (3/26/09), which applies to Exec. Order 13770 pursuant to OGE Legal Advisory LA-17-03 (3/20/17).

ED_002087_00000797-00002

Consistent with my bar rules, while at EPA, I will not participate in any site on the attached lists that I previously worked on personally and substantially. Consistent with my obligations under ethics regulations and the Executive Order, for any of the sites on the attached list that I did not work on personally and substantially, I will not participate on that site until after [two years from date of appointment], 2020.

SCREENING ARRANGEMENT

In order to ensure that I do not participate in the matters relating to any of the entities listed above, I will instruct Barry Breen or Steven Cook, Deputy Assistant Administrators, to assist in screening EPA matters directed at my attention that involve these entities. All inquiries and comments involving the entities on my recusal list should be directed to Barry or Steven without my knowledge and involvement until after my recusal period ends.

If Barry or Steven determine that a particular matter will directly involve any of the entities listed on my "specific party" recusal list, then they will refer it for action or assignment to another, without my knowledge or involvement. In the event that they are unsure whether an issue is a particular matter from which I am recused, then they will consult with OGC/Ethics for a determination. I will provide a copy of this memorandum to my principal subordinates with a copy to Justina Fugh, Senior Counsel for Ethics.

UPDATE AS NECESSARY

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

Sincerely,

Peter Wright

Attachments

cc: Ryan Jackson, Chief of Staff
Steven Cook, Deputy Assistant Administrator
Barry Breen, Principal Deputy Assistant Administrator
Justina Fugh, Senior Counsel for Ethics

ED_002087_00000797-00003

Message

From: Grantham, Nancy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=12A3C2ED7158417FB0BB1B1B72A8CFB0-GRANTHAM, NANCY]
Sent: 7/27/2018 9:17:55 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: FW: Quotes to move on the record

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

-----Original Message-----
From: Tabuchi, Hiroko [mailto:hiroko.tabuchi@nytimes.com]
Sent: Friday, July 27, 2018 4:25 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Konkus, John <konkus.john@epa.gov>; Tryggvi Adalbjornsson <tryggvi.adalbjornsson@nytimes.com>
Subject: Re: Quotes to move on the record

One other thing we wanted to confirm -- We were looking to include something about Mr. Wright's personality/hobbies/background. We have found from our reporting that he grew up in Los Angeles, majored in religion at Wabash College in Indiana before going to law school at Indiana University.

And we noticed that on his Facebook page, Mr. Wright frequently posts about cocktails. And according to a post he made on Oct 5, 2016, he once fashioned an environmentally inspired gin-based blend in honor of his fellow environmental lawyers. He says the Green Chartreuse's "natural green color and the herbal, earthy flavor.. reminds one of the earth."

Let us know if there is anything you'd like to add or clarify

Many thanks,
Hiroko

Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 | hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi

On Fri, Jul 27, 2018 at 2:29 PM, Tabuchi, Hiroko <hiroko.tabuchi@nytimes.com> wrote:
> Many thanks. And did you also say you were preparing written responses
> to our emailed questions?
>
> Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 |
> hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi
>
>
> On Fri, Jul 27, 2018 at 1:28 PM, Grantham, Nancy <Grantham.Nancy@epa.gov> wrote:
>> Will do
>>
>> Nancy Grantham
>> Office of Public Affairs
>> US Environmental Protection Agency
>> 202-564-6879 (desk)
>> Ex. 6 (mobile)
>>
>> -----Original Message-----
>> From: Tabuchi, Hiroko [mailto:hiroko.tabuchi@nytimes.com]
>> Sent: Friday, July 27, 2018 1:25 PM
>> To: Grantham, Nancy <Grantham.Nancy@epa.gov>; Konkus, John
>> <konkus.john@epa.gov>
>> Subject: Quotes to move on the record
>>
>> Hi John, Nancy,
>>
>> Thanks again for arranging that call. Here are the quotes I'd like to move on the record. I likely will not be able to get all of them in the story, but I'd like to have that option.
>>

>> And if you are able to confirm that I've attributed the quotes to the right people, that would be much appreciated. And could you please confirm their titles?
>>
>> All best, Hiroko 212-556-2642
>>
>> Rhett Nelson:
>>
>> "Peter was notable for his professionalism, candor, cordiality and grace under pressure, and also had a practical sense of what needed to be done in order to successfully conclude the negotiations."
>>
>> (On Denney allegations:)
>> "I don't recall a correlation between that event and the course of negotiations."
>>
>> "I don't remember that there was any particular impact on the remedial work at the site. There was other data that was available that was reliable."
>>
>> "If we had to throw out some samples, it probably had zero impact on our assessment of environmental conditions at the site."
>>
>>
>> Bob Kaplan:
>>
>> "There was a time early on where the relationship between Dow and the EPA for a whole number of reasons was frayed, and became very contentious. The matter itself was very controversial."
>>
>> "It was EPA's position at the time that the cleanup should proceed more expeditiously, and Dow was doing an inadequate job at the time."
>>
>> "Through it all, I could talk to Peter one on one about positions or issues, and I found him to be professional in all his dealings."
>>
>> "In negotiations especially in high profile matters, sometimes the dynamics of the negotiators matter. What could have been even a more high pressure controversial super heated negotiations came to fruition because of the team dynamics. And that had a lot to do with Peter Wright."
>>
>> (On earlier EPA concerns over Dow actions) "The record speaks for itself. The EPA took action to take it from state lead to Superfund.
>> And from 2007 or so we decided to take a different path."

Message

From: Simon, Nigel [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E2F1084D32324DCD965683A9D2F09764-SIMON, NIGEL]
Sent: 8/10/2018 8:00:48 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Smith, Susan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c1a62ca9f6e24d83a94288b6b2d2f7a0-SCSmith]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: RE: Action Item Due COB 8/8: Risk Communication Meeting with OIG

Thanks Peter.

From: Wright, Peter
Sent: Friday, August 10, 2018 12:59 PM
To: Simon, Nigel <Simon.Nigel@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Smith, Susan <Smith.Susan@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Subject: RE: Action Item Due COB 8/8: Risk Communication Meeting with OIG

Nigel

I have one comment. I think OEM's response sounded more negative then needed. On page 5 in the OEM section I would have the first sentence read as follows:

Deliberative Process / Ex. 5

Peter

From: Simon, Nigel
Sent: Friday, August 10, 2018 12:32 PM
To: Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Smith, Susan <Smith.Susan@epa.gov>
Subject: FW: Action Item Due COB 8/8: Risk Communication Meeting with OIG

Hi Peter/Steven:

This is due by COB today to the IG, do you have any comments or edits?

Nigel

From: Smith, Susan
Sent: Thursday, August 09, 2018 11:41 AM
To: Simon, Nigel <Simon.Nigel@epa.gov>
Cc: Thornton, Kecia <Thornton.Kecia@epa.gov>; Shropshire, Doris <Shropshire.Doris@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Subject: RE: Action Item Due COB 8/8: Risk Communication Meeting with OIG

Nigel –

In response to the OIGs request for risk communications materials, attached are the collated comments and several reference documents received from the individual offices. Let me know if you have comments. Otherwise I will plan to send to OIG. Thanks!!

Susan

Susan Smith, Director/ PMO
Organizational Management and Integrity Staff
Office of Land and Emergency Management/U.S. EPA
1301 Constitution Ave., NW, Washington, DC 20460
4139 WJC West/MC: 5101T

202-564-6656 (office)
202-834-8239 (cell)

Follow OLEM **on Twitter @EPALand**

From: Simon, Nigel
Sent: Monday, August 06, 2018 5:40 PM
To: OLEM OD Deputies <OLEMODDeputies@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Duteau, Helen <Duteau.Helen@EPA.GOV>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Thornton, Kecia <Thornton.Kecia@epa.gov>; Shropshire, Doris <Shropshire.Doris@epa.gov>; Thornton, Kecia <Thornton.Kecia@epa.gov>
Subject: Action Item Due COB 8/8: Risk Communication Meeting with OIG

ODs/Deputies:

Per our meeting today with the OIG, thanks for your input and feedback on the upcoming OIG assignment in the area of risk communication for OLEM programs. If you have any program criteria (Superfund, RCRA, Brownfields, LUST, Emergency Response) that identify any risk communication goals and those that relate to the effectiveness and timeliness of the risk communication and human health protection, please send to both Susan Smith and Kecia Thornton by **COB Wed., August 8.**

Thanks,

Nigel

Message

From: Lloyd, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3DEEDE75DB8E44A790B2F73DEBF00E12-LLOYD, DAVID]
Sent: 8/3/2018 3:05:23 PM
To: Goodin, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3eac342f280a4b9db4079c81f66d1913-JGoodin]; Parker, Robin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b450f56aa4ba4a6aa6b41ab637aef49c-Parker, Robin]; Connors, Sandra [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cc4f8f838be74de797ba9f894a0bc7b5-SCONNORS]; Frazer, Brian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=572986d047624669891da90708433da1-Brian Frazer]; Eisenberg, Mindy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cfb4c26bb6f44c7db69f9884628b3ef9-Eisenberg, Mindy]; Benson, Bob [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ccd3c8d2700447d2a9cc695b9a73340a-Benson, Bob]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Simon, Nigel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2f1084d32324dcd965683a9d2f09764-Simon, Nigel]; Overmeyer, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8236f45371ec42739627e3735c87503c-povermey]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Lentz, Rachel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=df7bc2606f35406db2b534c4ab8de17c-rlentz]; Storm, Aimee [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b97e810bec6461a926f7d1897e519ab-AStorm]; Quinn, Megan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d17b7cdfa23541c292902d7f8bb56668-Quinn, Megan]; Congdon, Rachel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15715928a9094edcb56ee80768af4b2d-Congdon, Rachel]
Subject: OLEM Environmental Workforce Development and Job Training Grantee Meeting
Attachments: Detailed Agenda 2018.final.pdf

Good Morning John,

I wanted to take a moment to again thank you and your staff, and the Office of Water, for your continued support to OLEM's Environmental Workforce Development and Job Training Program. OLEM's partnership with the Office of Water over the years has allowed our grantees to offer broader, more-holistic environmental training, and has advanced the broader environmental outcome goals of both of our Offices. The broader training opportunities give graduates the ability to earn additional certificates and licenses, which in turn increases the graduates' prospects of obtaining sustainable and long-term employment.

With the Office of Water's contributions to this program, 2,761 individuals were trained and 2,093 of those individuals obtained employment in the environmental field with an average starting wage of over $15 an hour, this translates into a 76% placement success rate! OBLR is grateful for the support and continued partnership with OW.

On August 8th and 9th, OBLR is co-sponsoring our annual All-Grantee meeting that brings together all of our EWDJT grantees, regional Job Training Coordinators, and partner offices here at EPA. I am sharing this information in case you or any of your staff would like to take advantage of this fantastic opportunity to hear firsthand from our grantees on the work that they do and to hear from their successful graduates who now have careers in the environmental field. I have attached the agenda for those who may be interested in attending, and look forward to continuing to work with OW and Urban Waters. With Sincere Thanks -

David R. Lloyd, Director
Office of Brownfields and Land Revitalization
U.S. Environmental Protection Agency
Washington, DC
202-566-2731

ANNUAL
ENVIRONMENTAL JOB DEVELOPMENT
ALL-GRANTEE MEETING

SPONSORED BY: Hazardous Materials Training and Research Institute (HMTRI) under a Cooperative Agreement with the U.S. Environmental Protection Agency

FACILITATORS: Heather Ballou, Linda Baxley, and Mike Senew—HMTRI

LOCATION: Crowne Plaza Old Town Alexandria

Tuesday, August 7, 2018
6:00 p.m.–8:00 p.m.

CHECK-IN ONLY (NO MEETING)
Receive name badge and meeting materials.

LOCATION
Foyer outside Jefferson Room

HMTRI
Heather Ballou, Linda Baxley, and Mike Senew

The meeting will start at 8:00 a.m. on Wednesday, August 8th and Thursday, August 9th in Jefferson.

Breakout sessions will be held in Kennedy, Roosevelt East, and Roosevelt West.
Room locations are noted in parentheses after the title of each session.

Continental breakfast and check-in will be available at 7:15 a.m.

ED_002087_00000859-00001

WEDNESDAY, AUGUST 8, 2018

7:15 a.m. **SIGN-IN / CONTINENTAL BREAKFAST / NETWORKING**

8:00 a.m. **WELCOME / OVERVIEW OF THE DAY** (Jefferson) - Heather Ballou & Mike Senew, HMTRI
Meeting goals and objectives • Networking and breakout sessions

8:15 a.m. **RECOGNITION BY GROUPS** (Jefferson)
Recognition of new grantees • Recognition of experienced grantees • Recognition of those new to the All-Grantee Meeting • Regional Offices • Brownfields Job Training Coordinators • EPA staff introductions

8:30 a.m. **GROUP NETWORKING** (Jefferson)
Meet and greet • 5 minute "speed" introductions and mixer

9:00 a.m. **WELCOME / UPDATES FROM EPA HEADQUARTERS** (Jefferson)
Agency overview • OBLR history, organization, and activities • The BUILD Act as it may impact EWDJT • EWDJT program plans and RFP schedules • ACRES - purpose and use • ARC grants and the EWDJT program • Goals and objectives of the EWDJT program

- *David Lloyd, Director, Office of Brownfields & Land Revitalization, EPA HQ*
- *Rachel Congdon, EWDJT Program Lead, Office of Brownfields & Land Revitalization, EPA HQ*

9:30 a.m. **EWDJT STUDENT AND ALUMNI PANEL** (Jefferson)
An informal introduction and discussion of environmental training programs and careers from EWDJT program graduates.

- *Corey Mayo, St. Louis Community College*
- *Frank Hardy, Groundworks Rhode Island*
- *Kashmira Diaz, Groundworks Rhode Island*
- *Ricardo Loza, formerly TCB Industrial, City of Tacoma*
- *VaShawn Wade, RichmondBUILD*
- *Walt Yakabosky, Energy Coordinating Agency*

10:30 a.m. **BREAK & MOVE TO REGIONAL MEETINGS**

10:45 a.m. **EPA REGIONAL MEETINGS**
Grantee introductions and experience • Core curriculum and program emphasis • Regional expectations • Regional contacts • Social media and webinars • Conference calls • Grant administration from a regional perspective • Quarterly reporting • Past issues with grantees • Budget issues • Work plan approval • Changes in work plans, instruction or staff • Open discussion and questions

- ✓ Regions 1 & 2—(Jefferson)
- ✓ Regions 3 & 4—(Kennedy)
- ✓ Regions 5-7—(Roosevelt West)
- ✓ Regions 9 & 10—(Roosevelt East)

11:30 a.m. **BREAK & MOVE TO NEXT SESSION**

11:45 a.m. **CONCURRENT SESSIONS**

- ✓ **ACRES – Program reporting** (Roosevelt West)
  Reporting requirements • Introduction to ACRES • ACRES demonstration • Refresher for existing grantees • EPA overview • New developments
  - *Presenter - TBA*

✓ **Selling your program** (Roosevelt East)
Working with elected officials • Networking • Public meetings • Working with community leaders • Finding potential employers • Marketing methodologies • Setting up and using advisory boards • Making your program known to employers • Media tools for increasing program awareness

- *Discussion Starter - Rene Dulle, St. Louis Community College*
- *Session Facilitator - Alma Moreno Lahm (R7)*

✓ **Ensuring your program is gender neutral** (Kennedy)
Women in nontraditional jobs • Recruitment methodologies • Harassment policies • Bullying issues • Female instructors • Supporting women in non-traditional jobs • Marketing materials • Female role models and mentors • Tools and working attire • Physical limitations

- *Discussion Starter - Amy James Neel, Oregon Tradeswomen*
- *Discussion Starter - Debra Love, Lawson State Community College*
- *Session Facilitator - Christine Lombard (R1)*

12:30 p.m. **WORKING LUNCH / NETWORKING** (Jefferson)
SIT ANYWHERE & network with others outside your region.

1:30 p.m. **WORKFORCE TRAINING PROGRAMS & RESOURCES PANEL** (Jefferson)

- **NIEHS -** The Environmental Career Worker Training Program (ECWTP)-*Sharon Beard - NIEHS*
- **EPA -** Superfund Job Training Initiative - *Melissa Friedland - USEPA*
- **NSF -** Advanced Technology Environmental and Energy Center- *Linda Baxley - ATEEC*
- **HMTRI -** Environmental Workforce Development Resources – *Heather Ballou - HMTRI*

2:15 p.m. **BREAK & MOVE TO NEXT SESSION**

2:30 p.m. **CONCURRENT SESSIONS**

✓ **Retention strategies that work** (Kennedy)
Strategies that increase retention rates • Ways of relating to students • Student services offered • Retaining individuals overcome by drug and alcohol addiction • Transportation, child care, and legal assistance • Life skills training • Employing case workers to resolve student issues • Social networks • The importance of family nights to retain participants • Maximizing retention – minimizing dropouts • Caseworkers, mentors, and personal counselors • Preparing graduates for employment • Leveraging student support services • Policies that allow applicants to "drop out" • Work study programs

- *Discussion Starter - Eric Shanks, Cypress Mandela Training Center*
- *Session Facilitator - Craig Mankowski (R5)*

✓ **Using technology effectively** (Roosevelt East)
Computers in the classroom • Using smartphones for communications, tracking, and scheduling • Using tablets to deliver curriculum • Announcements and communications • Social media strategies • Use of visual media • Virtual reality • Keeping in touch with graduates • The "digital divide" as a headwind to advancement • Using digital games for team building • Digital administrative tools

- *Discussion Starter - Elizabeth Cornell, Limitless Vistas, Inc.*
- *Session Facilitator - Gianna Rosati (R3)*

✓ **Environmental Justice** (Roosevelt West)
EJ Small Grants program • Community assessment and environmental justice • Using Environmental Justice mapping tools • Selecting EWDJT target communities • Working with community groups and neighborhood organizers • Using EJSCREEN to characterize target communities

- *Presenter - Simone Walter, USEPA*
- *Presenter - Tai Lung, USEPA*

3:15 p.m. **BREAK & MOVE TO NEXT SESSION**

3:30 p.m. **CONCURRENT SESSIONS**

✓ **Chemical safety, lead, and asbestos training** (Kennedy)
EPA renovation • Repair and painting regulations (RRP) • Asbestos abatement • Lead based paint inspector certification • Asbestos inspector certification • Clandestine drug lab cleanup

- *Discussion Starter - Fred* Lucero, City of Richmond
- *Session Facilitator - Jeff Barnett (R3)*

✓ **Curriculum and training – where the jobs are** (Roosevelt East)
Mandatory curriculum • Popular courses • Balancing curriculum and EPA funding constraints • Health and safety curriculum • Courses in most demand • Training tools • Digital vs print materials • Training schedules (day vs night) • Training cycles and optimal class sizes • Essential training • Best training to insure employment opportunities • Gaining traction with potential employers and contractors • Environmental job trends • Untraditional environmental occupations

- *Discussion Starter - Janet Kerley, Santa FE CC*
- *Session Facilitator - Nova Blazej (R9)*

✓ **Solid waste management** (Roosevelt West)
Recycling • Deconstruction • Solid waste occupations • Career opportunities • Landfill operators • Solid waste management and remediation • Urban agriculture/composting • Flagger certification • Solid waste remediation technician • Forklift training • Solid waste disposal training • Storing hazardous materials • Hazardous materials spills and clean-up

- *Discussion Starter - Ken Alexander, Recycle Force*
- *Session Facilitator - Deborah Burgess (R10)*

4:15 p.m. **BREAK & MOVE TO JEFFERSON ROOM**

4:30 p.m. **RECRUITMENT AND SCREENING STRATEGIES** (Jefferson)
Tryouts and pre-training • Recruitment timelines • Student assessment strategies • Student contracts • Pre-admission drug testing • Class size vs applicant pool • Testing methods

- *Presenters - Montgomery Profitt, OAI*
- *Presenters - Cleophus Lee, OAI*

5:15 p.m. **QUESTIONS / ANNOUNCEMENT / ADJOURN**

The meeting will continue on Thursday morning at 8:00 a.m. in Jefferson.

Continental breakfast will be available at 7:15 a.m.
Casual dress

PLEASE WEAR YOUR NAME TAG.

THURSDAY, AUGUST 9, 2018

7:15 a.m. **CONTINENTAL BREAKFAST / NETWORKING**

8:00 a.m. **OVERVIEW OF THE DAY** (Jefferson)—*Heather Ballou & Mike Senew, HMTRI*

8:15 a.m. **REGIONAL COORDINATORS – CRITICAL ISSUES PANEL** (Jefferson)

Summary of regional breakout sessions • Quarterly reports • Grant preparation • Issues to avoid • Critical issues • Positives and negatives during grant reviews • Relationships between grantees, the regional office, and grants administration • Work plan changes • Problems with work plans or administration • Staff changes • Common mistakes grantees make • Mistakes new applicants make when writing proposals • Mistakes experienced grantees make when developing proposals for program continuation

- *Panel member - Schenine Mitchell (R2)*
- *Panel member - Linda Morgan (R5)*
- *Panel member - Nova Blazej (R9)*
- *Panel member – Alma Moreno Lahm (R7)*

9:00 a.m. **BREAK & MOVE TO NEXT SESSION**

9:15 a.m. **CONCURRENT SESSIONS**

✓ **Water and stormwater management** (Roosevelt East)

Water stormwater occupations • Water gardens • Wastewater operator • Base level water operator stormwater management and green infrastructure • Trenching and shoring • Wastewater operator • Water operator for distribution • Water operator for ground water • Safety technician • Example core curriculum

- *Discussion Starter - Bill Clark, Rose State College*
- *Session Facilitator - Rita Ware (R6)*

✓ **Placement and tracking strategies that work** (Kennedy)

Revisiting labor market assessments • Potential employers as trainers • Potential employers as advisors • Alumni nights • Working with human resource organizations • Working with temp and manpower firms • Acquiring bonds for new hires • Using first hire and project labor agreements • Establishing and maintaining union relationships • Pre apprentice programs • Partnering with organized labor • Social networks • Keeping in "touch" • Example job titles • Internships, work study, and pre-apprentice programs • Digital tracking tools

- *Discussion Starter - April Reed-McCoy, Zender Environmental*
- *Session Facilitator - Linda Morgan (R5)*

✓ **Are you OSHA compliant?** (Roosevelt West)

Training records • Regulatory updates • New regulations • Proposed regulations • Participant physicals • Instructor credentials • OSHA basics • Certifications that might blend well with OSHA 10 and HAZWOPER • What does "certification" mean for a course • Frequently made mistakes • How to choose good OSHA trainers • What qualities, experience, and education levels are necessary for instructors

- *Presenter - John Morgan, HMTRI,CCCHST*

10:00 a.m. **BREAK & MOVE TO NEXT SESSION**

10:15 a.m. **CONCURRENT SESSIONS**

- ✓ **Employer engagement** (Roosevelt West)
  Developing relationships with potential employers • Employers as instructors • Employers as mentors • Corporate partnerships • Participation in social events • Requests for donations • Bonding to the EWDJT program • Using labor market assessments to find employer support • Setting up internships and work study programs with potential employers • Employer meetings • Working with city hall purchasing to identify potential employers
  - *Discussion Starter - Jake Markosky, Pauline Auberle Foundation*
  - *Discussion Starter - Ricardo Loza, formerly TCB Industrial, City of Tacoma*
  - *Session Facilitator - Donnie Williams (R4)*

- ✓ **Using advisory committees effectively** (Roosevelt East)
  Purpose and reasons for having advisory boards • Composition of the advisory board • Frequency of meetings • Meeting topics • Employers as advisors • Retiring nonperforming advisors • Duties of the advisory board • Recruiting advisory boards
  - *Discussion Starter - Paul McFadden, City of Rochester*
  - *Session Facilitator - Jeff Barnett (R3)*

- ✓ **Health and safety basics for EWDJT managers** (Kennedy)
  Finding trainers • Vetting trainers • Student safety • Certifications vs training without certification • Mandatory courses (1910.120) • Recommended courses (OSHA 10) • Popular courses (Confined Space Entry, First Aid/CPR/AED, OSHA 7405 Fall Protection, OSHA 7410 Excavation and Trenching, OSHA 7300, Confined Spaces) • Spills and emergency response
  - *Presenter - John Morgan, HMTRI,CCCHST*

11:00 a.m. **BREAK & MOVE TO NEXT SESSION**

11:15 a.m. **GRANT ADMINISTRATION** (Jefferson)
Hints & Tips on working with partners, subcontractors, and consultants • Allowable costs and potential "land mines" for grant managers • EPA grantee procurement process guidelines • Contractor guidelines and regulations • Sub grantee guidelines and regulations • Contractor/consultants vs partnerships and sub-grantees • Record keeping • The BUILD Act
- *Presenter - Jim Drummond, USEPA*

12:00 p.m. **WORKING LUNCH / NETWORKING** (Jefferson)
SIT ANYWHERE

1:00 p.m. **DRUG ISSUES PANEL – SCREENING AND PLACEMENT** (Jefferson)
- *Panel member - Jake Markosky, Pauline Auberle*
- *Panel member - Jeffrey Lewis, PathStone Corporation*
- *Panel member - Amy Bell, City of Tacoma*
- *Panel member - Kathy Stiller, West End Neighborhood House*
- *Panel member - Janet Kerley, Santa Fe Community College*

1:45 p.m. **BREAK & MOVE TO NEXT SESSION**

2:00 p.m. **CONCURRENT SESSIONS**

- ✓ **Program sustainability** (Kennedy)
  Backstop supporters • Importance of partnerships • State appropriations • Court awards • Private funding • Corporate partnerships • Program merging • Synergistic grant awards • Resource leveraging • Reduction of services offered
  - *Discussion Starter - Merl Craft, City of Pittsburg*
  - *Discussion Starter - Eric Shanks, Cypress Mandela Training Center*
  - *Session Facilitator - Schenine Mitchell (R2)*

- ✓ **Support services** (Roosevelt East)
  Interviewing Skills • Life skills and remedial education • Case workers • Daycare • On-the-job Training • Paid Apprenticeship • Behavior modification • Restoration justice • Drug rehabilitation • Working with WIBS • Participant qualification for support services • Leveraged sources of support • Transportation, city, and state support
  - *Discussion Starter - Laury McIntyre, Employment Skills Center*
  - *Session Facilitator - Christine Lombard (R1)*

- ✓ **Filling funding gaps – program leveraging** (Roosevelt West)
  Partners who backstop programs • Using advisory committees to seek support • Sharing resources with other programs • Finding leveraged resources • Offering student services not supported with EPA funds • Locating funding opportunities • Sources of leveraged support • Grants.gov
  - *Discussion Starter - Isaac Weber, City of Springfield*
  - *Session Facilitator - Craig Mankowski (R5)*

2:45 p.m. **BREAK & MOVE TO NEXT SESSION**

3:00 p.m. **CONCURRENT SESSIONS**

- ✓ **Partnerships and community involvement** (Kennedy)
  Finding leveraged resources • Private sponsors • Equipment donations • Community events • Supplemental grants • Working with City Council • Working with faith based organizations • establishing fund raising organizations for support
  - *Discussion Starter - Marilyn Wynn, Coalfield Development*
  - *Session Facilitator - Rita Ware (R6)*

- ✓ **Hiring barriers and successful placement** (Roosevelt East)
  Criminal records • Addictions • Employability curriculum • Remedial training • Anger management • Team building strategies • Placing ex-offenders • Federal and state bonding • Using labor market assessments to identify potential employers • Entrepreneurship as an option to direct employment • Resume making/updating • Job retention
  - *Discussion Starter - Susan Almono, Merrimac Valley WIB*
  - *Session Facilitator - Stan Walker (R7)*

- ✓ **Best practices and proposal development** (Roosevelt West)
  Revisiting community and labor market assessments • Update your curriculum • Engage your partners • Engage the community • Grant writing basics • Investing in comprehensive program plans • Organizing your team • Learning from other program – successful strategies • Information exchange • Networking with other grantees • Responding to Requests for Proposals
  - *Discussion Starter - Matthias Bohler, Merrimac Valley WIB*
  - *Session Facilitator - Nova Blazej (R9)*

3:45 p.m. **MOVE TO JEFFERSON ROOM**

4:00 p.m. **FREESTYLE DISCUSSIONS – ROUNDTABLE** (Jefferson)
Topics selected by session participants • As a team select topics for discussion • Open discussion about issues of concern • Technical assistance and mentoring

- *All Participants*

4:45 p.m. **RESOURCES, ANNOUNCEMENTS, QUESTIONS, MEETING EVALUATION** (Jefferson)
Post meeting notes • PowerPoints • Post meeting evaluation and feedback

5:00 p.m. **ADJOURN - Thank you for coming! Have a safe trip home.**

Message

From: Simon, Nigel [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E2F1084D32324DCD965683A9D2F09764-SIMON, NIGEL]
Sent: 8/10/2018 4:31:35 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Smith, Susan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c1a62ca9f6e24d83a94288b6b2d2f7a0-SCSmith]
Subject: FW: Action Item Due COB 8/8: Risk Communication Meeting with OIG
Attachments: Comments for OIG on Risk Communcations.docx; Formatted Risk Based Factsheet 6-23-16.pdf; FINAL_RCRA PPM_010917_FSPB.DOCX

Hi Peter/Steven:

This is due by COB today to the IG, do you have any comments or edits?

Nigel

From: Smith, Susan
Sent: Thursday, August 09, 2018 11:41 AM
To: Simon, Nigel <Simon.Nigel@epa.gov>
Cc: Thornton, Kecia <Thornton.Kecia@epa.gov>; Shropshire, Doris <Shropshire.Doris@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Subject: RE: Action Item Due COB 8/8: Risk Communication Meeting with OIG

Nigel –

In response to the OIGs request for risk communications materials, attached are the collated comments and several reference documents received from the individual offices. Let me know if you have comments. Otherwise I will plan to send to OIG. Thanks!!

Susan

Susan Smith, Director/ PMO
Organizational Management and Integrity Staff
Office of Land and Emergency Management/U.S. EPA
1301 Constitution Ave., NW, Washington, DC 20460
4139 WJC West/MC: 5101T

202-564-6656 (office)
202-834-8239 (cell)

Follow OLEM **on Twitter @EPALand**

From: Simon, Nigel
Sent: Monday, August 06, 2018 5:40 PM
To: OLEM OD Deputies <OLEMODDeputies@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Duteau, Helen <Duteau.Helen@EPA.GOV>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Thornton, Kecia <Thornton.Kecia@epa.gov>;

Shropshire, Doris <Shropshire.Doris@epa.gov>; Thornton, Kecia <Thornton.Kecia@epa.gov>
Subject: Action Item Due COB 8/8: Risk Communication Meeting with OIG

ODs/Deputies:

Per our meeting today with the OIG, thanks for your input and feedback on the upcoming OIG assignment in the area of risk communication for OLEM programs. If you have any program criteria (Superfund, RCRA, Brownfields, LUST, Emergency Response) that identify any risk communication goals and those that relate to the effectiveness and timeliness of the risk communication and human health protection, please send to both Susan Smith and Kecia Thornton by **COB Wed., August 8.**

Thanks,

Nigel

Message

From: Cook, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=394F5DEDE6184BC083CF9390E49A192C-COOK, STEVE]
Sent: 7/30/2018 4:41:56 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: FW: Metals US
Attachments: Environmental Cleanup White Paper.pdf; Solid Phase Extraction Technology Presentation - EPA April 2018.pdf

Any thoughts on this?

From: Chancellor, Erin
Sent: Monday, July 16, 2018 12:27 PM
To: Cook, Steven <cook.steven@epa.gov>
Subject: FW: Metals US

This is an outstanding item from the last CHEJ meeting. Seems like we need to decide if we want to set up a meeting and hear more about this technology.

Erin E. Chancellor

From: Chancellor, Erin
Sent: Monday, May 14, 2018 9:18 AM
To: Steven Cook (Cook.steven@Epa.gov) <Cook.steven@Epa.gov>; Silvina Fonseca (Fonseca.Silvina@epa.gov) <Fonseca.Silvina@epa.gov>; Veronica Darwin (darwin.veronica@epa.gov) <darwin.veronica@epa.gov>; Nick Falvo <falvo.nicholas@epa.gov>
Subject: FW: Metals US

Info Kell referred to in the Lois Gibbs follow ups.

Erin E. Chancellor

From: Kelly, Albert
Sent: Friday, April 27, 2018 9:52 AM
To: Chancellor, Erin <chancellor.erin@epa.gov>
Subject: FW: Metals US

East Chicago and Dupont

Albert Kelly
Senior Advisor to the Administrator
1200 Pennsylvania Avenue, NW
Washington, DC 20460
202 306 8830

From: John Hammen [mailto:john.hammen@metalsus.com]
Sent: Friday, April 27, 2018 4:34 AM
To: Larry Davis <lad@netnitco.net>
Cc: Kelly, Albert <kelly.albert@epa.gov>
Subject: Re: Metals US

Hello Mr. Davis,

It is good to be introduced to you via e-mail, and I appreciate Mr. Kelly bringing us together. From the bit that I have heard from Mr. Kelly and your own description, it sounds like this project could be an ideal application for our technology to bring about a better outcome than that possible through other processes. I would look forward to discussing further with you to understand the project better and confirm this, and if so, begin envisioning a path towards verification and implementation. I would also be pleased and honored to present to your group and community. As far as the politics go, I will leave that up to you and Mr. Kelly to discuss as you are far more knowledgeable about it than I. However, on our end, I know myself and my team would very much look forward to a chance to meet with you.

You have my email here. My phone is Personal Privacy / Ex. 6. I have also attached a couple of documents with more information about the technology. Feel free to give me a call any time to discuss further. Best Regards,

-John

On Thu, Apr 26, 2018 at 5:51 PM, Larry Davis <lad@netnitco.net> wrote:

> Hello Mr. Kelly, This looks like it could be very promising for the remaining 25% concentrate once the 75% by weight Quartz sand in local soils is separated out using hydrocyclone technology or some other means of clean physical separation with high throughput...
>
> Of course it would require convincing both U.S. EPA Staff and the Responsible Parties that a permanent solution is better than the current plans for both the USS Lead Superfund Site and the DuPont Facility in East Chicago, Indiana.
>
> I remain convinced that the best thing in the long-term for both the companies and communities is to fully eliminate the toxic liabilities by reclaiming the valuable chemicals and metals rather than leave massive amounts of them on-site or in the on-site landfill of questionable integrity that cannot meet minimum technical requirements for Resource Conservation and Recovery Act land disposal of solid wastes.
>
> Paying millions to throw away (land dispose) valuable, rare, and strategic minerals and metals just doesn't seem like a good idea no matter who is paying for it... It only ensures a long-term toxic threat to surrounding communities and drinking water supplies like Lake Michigan will go on forever.
>
> Ideally a successful demonstration in East Chicago, Indiana could be applied elsewhere at other clean-up sites and Brownfield sites with similar circumstances.
>
> Sincerely;

Larry Davis

268 South 600 West

Hebron, Indiana 46341

(219) 488-6052

< lad@netnitco.net >

From: Kelly, Albert [mailto:kelly.albert@epa.gov]
Sent: Thursday, April 26, 2018 12:59 PM
To: lad@netnitco.net
Cc: john.hammen@MetalsUS.com
Subject: Metals US

Hello Mr. Davis, I wanted to introduce you to John Hammen who is copied on this email. He is the CEO of Metals US and has a process that he believes will timely and properly separate and purify high value metals from water or soil or otherwise. Given you suggestion of the high minerals levels in East Chicago and Dupont, I thought an introduction of the two of you was in order. I did explain the circumstance regarding the 127,000 tons of arsenic there. I would appreciate your letting me know if this has any application there in your opinion.

Albert Kelly

Senior Advisor to the Administrator

1200 Pennsylvania Avenue, NW

Washington, DC 20460

202 306 8830

--

John Hammen | Chief Executive Officer

Metals US

(406) 370-3869
www.metalsus.com

Message

From: Lloyd, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3DEEDE75DB8E44A790B2F73DEBF00E12-LLOYD, DAVID]
Sent: 7/25/2018 3:04:29 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: Re: OBLR Meeting Next week

Thank you Peter.

David R. Lloyd
202-680-4205

On Jul 25, 2018, at 9:55 AM, Wright, Peter <wright.peter@epa.gov> wrote:

> David
>
> Please accept my condolences.
>
> It is my pleasure to speak at the meeting and getting to know these leaders.
>
> Peter
>
> ---
>
> **From:** Lloyd, David
> **Sent:** Wednesday, July 25, 2018 9:43 AM
> **To:** Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>
> **Cc:** Overmeyer, Patricia <Overmeyer.Patricia@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Quinn, Megan <Quinn.Megan@epa.gov>; Storm, Aimee <storm.aimee@epa.gov>; Lentz, Rachel <Lentz.Rachel@epa.gov>
> **Subject:** OBLR Meeting Next week
>
> Steve, Peter – Thank you for agreeing to speak to our BF Coordinators and Regional Leadership next Tuesday. I need to travel out west [Personal Matters / Ex. 6] so I will not be at the meeting on Tuesday. Patricia and our Team Leaders will be at the meeting. We appreciate you taking the time to welcome our Regional BF Teams. David
>
> David R. Lloyd, Director
> Office of Brownfields and Land Revitalization
> U.S. Environmental Protection Agency
> Washington, DC
> 202-566-2731

Message

From: Darwin, Veronica [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BC98AAF2F15A466BAEDE3DAB0E27A35E-DARWIN, VER]
Sent: 8/23/2018 6:47:24 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: FW: Ash Recycling
Attachments: Restore C2P2 FACT SHEET - rev 3-14-17.pdf

For tomorrow's meeting.
Veronica

From: Lovell, Will (William)
Sent: Thursday, August 23, 2018 2:43 PM
To: Darwin, Veronica <darwin.veronica@epa.gov>
Subject: Ash Recycling

Please see attached handout. Attendees will be:

Tom Adams, American Coal Ash Association Executive Director
John Ward, American Coal Ash Association Government Relations Committee Chairman

Will Lovell
Policy Advisor, Office of Policy
U.S. Environmental Protection Agency
(202) 564-5713
Lovell.William@epa.gov

C2P2 (2.0)

COAL COMBUSTION PRODUCTS PARTNERSHIP

C2P2 – What was it?

The **Coal Combustion Products Partnership** was a cooperative effort between U.S. Environmental Protection Agency (EPA), American Coal Ash Association (ACAA), Utility Solid Waste Activities Group (USWAG), U.S. Department of Energy (DOE), Federal Highway Administration (FHWA), Electric Power Research Institute (EPRI), and U.S. Department of Agriculture Agricultural Research Service (USDA-ARS) to promote **beneficial use of coal ash** as an environmentally preferable alternative to disposal. The initiative included three primary activities:

• A Challenge Program • Barrier Breaking Activities • Development of CCP-Utilization Workshops

C2P2 engaged the entire coal ash value chain – utilities, marketers, highway engineers, product manufacturers, and state environmental regulators – in identifying and implementing best practices for coal ash beneficial use.

C2P2 – What did it accomplish?

The C2P2 program was active during the **most significant growth period for coal ash beneficial use** in history. In 2000, EPA issued a Final Regulatory Determination that coal ash should be regulated under "non-hazardous" RCRA Subtitle D and subsequently initiated the C2P2 program. The results were dramatic:

- 2000 – Beneficial use volume **32.1 million tons**
- 2008 – Beneficial use volume **60.6 million tons**

Following the Kingston coal ash spill in December 2008, EPA commenced a six-year coal ash disposal rulemaking that included the possibility of a "hazardous" RCRA Subtitle C determination. EPA also terminated the C2P2 program. Beneficial use volumes subsequently declined.

*If annual beneficial use from 2009-2013 had simply remained level with 2008's utilization, **26.4 million tons** less coal ash would have been deposited in landfills and impoundments.*

C2P2 – Where did it go?

Early in EPA's lengthy coal ash disposal rulemaking, the Agency unilaterally terminated the C2P2 program without notifying any of its 200+ partners. Later, the EPA Inspector General conducted an investigation of the program and concluded that EPA should have done more to evaluate risks of beneficial uses before promoting them.

EPA subsequently addressed the IG's criticism by developing a comprehensive "Risk Evaluation Methodology" and applying that methodology to the two largest beneficial uses – fly ash concrete and synthetic gypsum wallboard. Both evaluations passed with flying colors. **But the C2P2 program was not reinstated.**

C2P2 – Why it is needed again...

The United States still disposes of **more than 56 million tons** of coal ash annually. Additionally, compliance with EPA's 2014 coal ash disposal regulations presents a host of issues and opportunities for beneficial use, including the potential for reclamation of an estimated **1.5 billion tons** of previously disposed ash.

Reinstatement of the C2P2 program would be a meaningful, common sense, cooperative step toward improving our nation's environment. EPA's leadership in coal ash beneficial use is missed and would be welcomed again by a wide range of interested partners.

CONTACT: American Coal Ash Association – Thomas Adams, Executive Director 720-375-2998 thadams@acaa-usa.org
or John Ward, Government Relations Committee Chairman 801-560-9801 wardo@wardo.com

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/25/2018 2:23:03 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Clark, Becki [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a906e07f1cd143b9a3c2ddab813b8140-Clark, Becki]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Johnson, Barnes [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c39e9338cbf04dc3b4b29f78e5213303-Johnson, Barnes]; Lloyd, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3deede75db8e44a790b2f73debf00e12-Lloyd, David]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]; Simon, Nigel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2f1084d32324dcd965683a9d2f09764-Simon, Nigel]; Stalcup, Dana [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=70b76eb4c1c54ae585333e7fbcc83fed-Stalcup, Dana]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Cheatham, Reggie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c04c7b4fbf4d45108592282991c719cb-RCheatha]; Woolford, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9a70358e7660435cbe6afa87b7b9b71b-Woolford, James]; Salyer, Kathleen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d78fb62f65cd4cd8be1c87c7e4c4ccde-KSALYER]; Overmeyer, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8236f45371ec42739627e3735c87503c-povermey]
CC: Belke, Jim [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9c32df961c274152b3ba2873b03ae555-jbelke]; Jennings, Kim [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7eeab2bece9b461e949b23d538b7964a-kjenning]; Indermark, Michele [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cf63a0730b3e4d89aa3b8ce9a5d9eab2-Indermark,]
Subject: Agenda & materials for 11:00
Attachments: Pre-briefAgenda.docx; OBLR.Brownfields.docx; OEM.Chem Facility RMP.v2.docx; OEM-CERCLA-EPCRA Reporting.docx; ORCR.CCR.docx; OSRTI.LeadExposureSFSites.docx; QUESTIONSforWheelerBriefing.docx

Importance: High

Hi All,

Attached are the materials for our 11:00 pre-brief. They include:

- Agenda
- Latest draft fact sheets (OCIR approved versions. Barry, Steven, and Peter are reviewing now.)
- List of questions and answers your offices' submitted

How the briefing will go:

- For each topic on the agenda, the IO person identified (Peter or Steven) will ask any questions they have on the main messages in the fact sheets. The ODs will not be asked to go through the fact sheets.
- For the Superfund sites, Jim Woolford will go through the main messages on each site. [NOTE: Barry, Peter, and Steven have not reviewed the site fact sheets because Jim will be covering those.]
- After that, the group with go through the suggested questions and talk through whether the questions are the right ones, and whether the answers are what we'd like Wheeler to say.

Hope this helps. Let me know if you have any questions.

Jackie

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

-----Original Appointment-----
From: Breen, Barry
Sent: Friday, July 20, 2018 1:41 PM
To: Breen, Barry; Benjamin, Kent; Clark, Becki; Hilosky, Nick; Johnson, Barnes; Lloyd, David; Manges, Ellen; Simon, Nigel; Stalcup, Dana; Cook, Steven; Wright, Peter; Harwood, Jackie; Brooks, Becky; Cheatham, Reggie; Woolford, James; Salyer, Kathleen; Overmeyer, Patricia
Cc: Belke, Jim; Jennings, Kim; Indermark, Michele
Subject: OLEM Pre-meet for Acting Administrator's Hearing
When: Wednesday, July 25, 2018 11:00 AM-12:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: DCRoomWest4144GCIVTCPolycom/OLEM

Poc:	**Nick Hilosky**	**202-566-1942**
	Teresa Hill	**202-566-0184**

ODs at PY can call in on VTC.

OLEM Pre-Brief for Acting Administrator Hearing

AGENDA

7/25/18

- Coal Ash – Steven
- Brownfields – Peter
- Risk Management Plan – Peter
- CERCLA/EPCRA Reporting & Recent Vacatur Rule – Steven
- Lead Exposure at Superfund Sites – Jim Woolford
- Superfund Program Sites below – Jim Woolford
    - Ex. 5 Deliberative Process (DP)

Note: Peter will not participate in these site discussions:

- Ex. 5 Deliberative Process (DP)

- Questions (and answers) on topics above to use at Wheeler briefing

Message

From: Cogliano, Gerain [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4BA589A367194EFD92030BFBE891A298-COGLIANO, GERAIN]
Sent: 8/23/2018 6:46:23 PM
To: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Simon, Nigel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2f1084d32324dcd965683a9d2f09764-Simon, Nigel]
CC: Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Hostage, Barbara [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=13c503d29e7a4eceb13c449d182eca25-BHostage]
Subject: RE: Need response today! OK with Reg Plan revisions? New entry for Reg Agenda

We're checking with ORCR and OGC.

From: Cook, Steven
Sent: Thursday, August 23, 2018 2:12 PM
To: Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Simon, Nigel <Simon.Nigel@epa.gov>
Cc: Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>
Subject: RE: Need response today! OK with Reg Plan revisions? New entry for Reg Agenda

Deliberative Process / Ex. 5

From: Cogliano, Gerain
Sent: Thursday, August 23, 2018 2:10 PM
To: Cook, Steven <cook.steven@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Simon, Nigel <Simon.Nigel@epa.gov>
Cc: Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>
Subject: RE: Need response today! OK with Reg Plan revisions? New entry for Reg Agenda

No. **Deliberative Process / Ex. 5**
OMB is not expecting us to address it now.

From: Cook, Steven
Sent: Thursday, August 23, 2018 12:38 PM
To: Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Simon, Nigel <Simon.Nigel@epa.gov>
Cc: Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>
Subject: RE: Need response today! OK with Reg Plan revisions? New entry for Reg Agenda

Do we need to specifically mention the two court decisions that came out this week on RMP and CCR?

From: Cogliano, Gerain
Sent: Thursday, August 23, 2018 11:04 AM
To: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Simon, Nigel <Simon.Nigel@epa.gov>
Cc: Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>
Subject: Need response today! OK with Reg Plan revisions? New entry for Reg Agenda

Hi all,
OP is asking by COB our responses to OMB's edits to the Reg Plan and Agenda. Attached are our responses to the Reg Plan and an addition to the Reg Agenda Ex. 5 Deliberative Process (DP) Please let me know if these are okay to send forward. If not, let me know what needs to change.

Thanks.

Gerain Cogliano
OLEM's Regulatory Steering Committee Representative

Policy and Regulatory Management Team Leader
Policy Analysis and Regulatory Management Staff (PARMS)
Office of Program Management (OPM)
Office of Land and Emergency Management (OLEM)

WJC West Room 4130
Phone Number: 202-566-1929
Fax Number: 202-566-1934
Mail Code: 5103T
cogliano.gerain@epa.gov

For ADP information:
http://intranet.epa.gov/adpilibrary
http://intranet.epa.gov/olem/policy/index.htm

Message

From: Cook, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=394F5DEDE6184BC083CF9390E49A192C-COOK, STEVE]
Sent: 8/24/2018 2:03:57 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]
Subject: FW: Ash Recycling

As promised, links to the C2P2 coal ash beneficial reuse items.

From: Cook, Steven
Sent: Thursday, August 23, 2018 6:51 PM
To: Darwin, Veronica <darwin.veronica@epa.gov>
Cc: Lovell, Will (William) <lovell.william@epa.gov>
Subject: RE: Ash Recycling

The link below is to an EPA webpage that discusses reuse.

https://www.epa.gov/coalash/coal-ash-reuse

On the OIG webpage there are links to reports they did in 2010-11 on the issues they had with the C2P2 program.

https://www.epa.gov/office-inspector-general/report-website-coal-combustion-products-partnership-conflicts-agency
https://www.epa.gov/office-inspector-general/report-epa-promoted-use-coal-ash-products-incomplete-risk-information

---

From: Darwin, Veronica
Sent: Thursday, August 23, 2018 3:24 PM
To: Cook, Steven <cook.steven@epa.gov>
Subject: FW: Ash Recycling

Hi there,
Do you know of any handouts on CCR beneficial use? OP would very much appreciate them ahead of tomorrow's meeting, if we have them. No need to create anything new. Thanks.
V.

From: Lovell, Will (William)
Sent: Thursday, August 23, 2018 3:16 PM
To: Darwin, Veronica <darwin.veronica@epa.gov>
Subject: RE: Ash Recycling

I should ask – do y'all have any handouts that could be helpful for us?

From: Lovell, Will (William)
Sent: Thursday, August 23, 2018 2:43 PM
To: Darwin, Veronica <darwin.veronica@epa.gov>
Subject: Ash Recycling

Please see attached handout. Attendees will be:

Tom Adams, American Coal Ash Association Executive Director
John Ward, American Coal Ash Association Government Relations Committee Chairman

Will Lovell
Policy Advisor, Office of Policy
U.S. Environmental Protection Agency
(202) 564-5713
Lovell.William@epa.gov

Message

From: Woolford, James [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9A70358E7660435CBE6AFA87B7B9B71B-WOOLFORD, JAMES]
Sent: 7/17/2018 3:04:53 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: Fwd: FYI: Tittabawassee River - NYT Reporters attended the CAG Meeting last night

Sent from my iPhone

Begin forwarded message:

From: "Harwood, Jackie" <Harwood.Jackie@epa.gov>
Date: July 17, 2018 at 9:44:06 AM CDT
To: "Woolford, James" <Woolford.James@epa.gov>, "Stalcup, Dana" <Stalcup.Dana@epa.gov>, "Lowery, Brigid" <Lowery.Brigid@epa.gov>, "Fitz-James, Schatzi" <Fitz-James.Schatzi@epa.gov>, "Duteau, Helen" <Duteau.Helen@EPA.GOV>, "Keller, Melanie" <Keller.Melanie@epa.gov>
Cc: "Benjamin, Kent" <Benjamin.Kent@epa.gov>, "Manges, Ellen" <Manges.Ellen@epa.gov>, "Colip, Matthew" <colip.matthew@epa.gov>, "Taylor, Trish" <Taylor.Trish@epa.gov>
Subject: FYI: Tittabawassee River - NYT Reporters attended the CAG Meeting last night

FYI

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Bassler, Rachel
Sent: Tuesday, July 17, 2018 10:22 AM
To: Kelley, Jeff <kelley.jeff@epa.gov>; Rowan, Anne <rowan.anne@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: Tittabawassee River - NYT Reporters attended the CAG Meeting last night

I just wanted to give you a heads up, last night at the CAG meeting for the Tittabawassee River Superfund site, two reporters and a photographer from the New York Times came and asked questions during the Q&A. They did not interview the RPM after. Their questions largely related to how soon EPA would be done with the entire site. The RPM explained that **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP) The reporter did call about a week ago and said she would send questions but never did.

Here's a link to the Superfund site:
https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0503250

Thanks,
Rachel

Rachel Bassler
Press Officer
U.S. EPA Region 5
bassler.rachel@epa.gov
p: 312-886-7159
c: 312-914-3393

Appointment

From: Hilosky, Nick [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=39E1182AC8CD4709AE0787CA4A068D2D-NHILOSKY]
Sent: 7/30/2018 3:03:20 PM
To: Lloyd, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3deede75db8e44a790b2f73debf00e12-Lloyd, David]; Overmeyer, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8236f45371ec42739627e3735c87503c-povermey]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]

Subject: Brownfields Coordinator Meeting
Location: PY South First Floor Conf. Room (S1204/06)

Start: 7/31/2018 12:30:00 PM
End: 7/31/2018 12:45:00 PM
Show Time As: Tentative

Message

From: Cook, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=394F5DEDE6184BC083CF9390E49A192C-COOK, STEVE]
Sent: 8/23/2018 6:12:41 PM
To: Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=febaf0d56aab43f8a9174b18218c1182-Fotouhi, Da]
CC: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: RE: CCR- Notice of Intent to Sue

Excellent – that will work.

From: Fotouhi, David
Sent: Thursday, August 23, 2018 2:11 PM
To: Cook, Steven <cook.steven@epa.gov>
Cc: Wright, Peter <wright.peter@epa.gov>
Subject: RE: CCR- Notice of Intent to Sue

We would be glad to talk briefly about those decisions; however, I think meeting separately sometime over the next week or so makes sense for RMP and CCR given the breadth of those issues. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 I will ask the air law office (for RMP) and SWERLO (for CCR) to coordinate with your staff on setting up meetings, if that works for you.

Best,

David

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Cook, Steven
Sent: Thursday, August 23, 2018 1:47 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Wright, Peter <wright.peter@epa.gov>
Subject: RE: CCR- Notice of Intent to Sue

David – good to see you in person earlier today. Have a question about the meeting tomorrow. It was originally set up to cover the NGO notice concerning public participation guidelines under RCRA as applied to CCR permit programs. We have since had two court decisions (RMP and CCR) that also need discussion. Will we be prepared to discuss either of these cases as part of tomorrow's discussion or do we need to set up additional meetings?

Steven

-----Original Appointment-----
From: Jones, Knolyn **On Behalf Of** Cook, Steven
Sent: Thursday, August 23, 2018 8:13 AM
To: Cook, Steven; Wright, Peter; Barry Breen (Breen.Barry@epa.gov); Betsy Devlin (Devlin.Betsy@epa.gov); Celeste, Laurel; Stachowiak, Robert; John Michaud; Hostage, Barbara; Hilosky, Nick; Brooks, Becky; Johnson, Barnes
Cc: Lewis, Jen; Fotouhi, David
Subject: CCR- Notice of Intent to Sue
When: Friday, August 24, 2018 11:30 AM-12:15 PM (UTC-05:00) Eastern Time (US & Canada).
Where: 3146 West

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/30/2018 12:46:17 PM
To: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: RE: CCR and RMP Talking Point

Thanks Steven, will get this in ASAP too.

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Cook, Steven
Sent: Monday, July 30, 2018 8:06 AM
To: Wright, Peter <wright.peter@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: CCR and RMP Talking Point

Jackie – We also need to update the last bullet in the CCR talking points as follows:

Deliberative Process / Ex. 5

From: Wright, Peter
Sent: Monday, July 30, 2018 6:29 AM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>
Subject: Fwd: RMP Talking Point

Jackie

We need to update this talking point paper as apparently the one included in the Administrator's book for the weekend did not include the highlighted bullet below.

In rereading the bullet point I would make a couple of further edits. First I would add an "s" after the word "believe." **Deliberative Process / Ex. 5**

Friday was a hectic day and I think you and others did a great job.

Peter

Sent from my iPad

Begin forwarded message:

From: "Wright, Peter" <wright.peter@epa.gov>
Date: July 27, 2018 at 1:42:49 PM EDT
To: "Harwood, Jackie" <Harwood.Jackie@epa.gov>
Cc: "Breen, Barry" <Breen.Barry@epa.gov>
Subject: RMP Talking Point

Jackie

Here is the draft of the RMP talking point that I send you with an additional bullet for inclusion. The new bullet is highlighted and uses language from the Fed Reg.

Peter

Risk Management Plan (RMP) Rulemaking

Deliberative Process / Ex. 5

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/27/2018 6:16:27 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: FW: Dioxin response

Hi Peter,

I meant to cc: you on this. Let me know if you have any questions.

Thanks.
Jackie

From: Grantham, Nancy
Sent: Friday, July 27, 2018 1:09 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Colip, Matthew <colip.matthew@epa.gov>; Bussard, David <Bussard.David@epa.gov>
Subject: RE: Dioxin response

Thanks much

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Harwood, Jackie
Sent: Friday, July 27, 2018 12:57 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Colip, Matthew <colip.matthew@epa.gov>; Bussard, David <Bussard.David@epa.gov>
Subject: FW: Dioxin response

Hi Nancy,

Here's what Barry Breen suggested after reviewing Dave's email below:

> **The study cited in the article, which is 13 years old, was the basis for EPA's health effects study on dioxin. Since then EPA finalized its non-cancer science assessment for dioxin in 2012. The findings showed that generally, over a person's lifetime, current exposure to dioxins does not pose a significant health risk.**
>
> **Over the past several years EPA has worked to reduce emissions from all of the major industrial sources of dioxins. As a result of efforts by EPA, state governments and industry, known and measurable air emissions of dioxins in the United States have been reduced by 90 percent from 1987 levels. The largest remaining source of dioxin emissions is**

backyard burning of household trash. Most Americans have low-level exposure to dioxins. The non-cancer health assessment for dioxin could be considered in a range of agency activities, from establishing cleanup levels at Superfund sites, to reviewing the dioxin drinking water standard as part of EPA's regularly scheduled review process, to evaluating whether additional Clean Air Act limits on dioxin emissions are warranted.

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Grantham, Nancy
Sent: Friday, July 27, 2018 12:44 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>
Subject: FW: Dixoin response

Thanks . .are you going to send me a revised statement?

Thanks ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Bussard, David
Sent: Friday, July 27, 2018 12:05 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Woolford, James <Woolford.James@epa.gov>; Bahadori, Tina <Bahadori.Tina@epa.gov>
Subject: Dixoin response

Jackie and Nancy,

One of our offices confirmed that the 1978 Dow study, Kociba, discussed in the article was the key cancer quantification study in EPA's 1985 Health Effects document.

I can't confirm that the 1985 Health Effects document was the basis for various EPA program office decisions, but it seems likely. The program offices would need to confirm that.

David A. Bussard

Director, Washington Division, National Center for Environmental Assessment (NCEA)
Office of Research and Development (ORD), USEPA

Tel: 202-564-4113; office RRB Room 71254

From: Harwood, Jackie
Sent: Friday, July 27, 2018 11:31 AM
To: Bussard, David <Bussard.David@epa.gov>
Subject: RE: calling you two about this now thanks ng

Look at the very last paragraph, that might help.

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Bussard, David
Sent: Friday, July 27, 2018 11:30 AM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: RE: calling you two about this now thanks ng

Sure. Let me take a minute more to see the structure of the Wright article.

From: Harwood, Jackie
Sent: Friday, July 27, 2018 11:29 AM
To: Bussard, David <Bussard.David@epa.gov>
Subject: RE: calling you two about this now thanks ng

Can you call me again? Might be easier . . .

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Bussard, David
Sent: Friday, July 27, 2018 11:28 AM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: RE: calling you two about this now thanks ng

Do you know what OLEM cited as support for the Superfund cleanup standards?

From: Harwood, Jackie
Sent: Friday, July 27, 2018 11:16 AM
To: Bussard, David <Bussard.David@epa.gov>
Subject: FW: calling you two about this now thanks ng

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Grantham, Nancy
Sent: Friday, July 27, 2018 10:10 AM
To: Colip, Matthew <colip.matthew@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: calling you two about this now thanks ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Hubbard, Carolyn
Sent: Friday, July 27, 2018 10:08 AM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: RE: does this look okay? want to share with olem next thanks ng

I can't speak to the first sentence- **was the basis for well-established cleanup standards for two decades and relied upon by various government agencies, including EPA,** but the rest from what I sent to you yesterday looks right to me. This was all included in the announcement when the IRIS assessment was finalized in 2012.

Carolyn Hubbard
Communications Director
EPA Office of Research and Development
202-564-2189
Ex. 6 Personal Privacy (PP)

From: Grantham, Nancy
Sent: Friday, July 27, 2018 10:03 AM
To: Hubbard, Carolyn <Hubbard.Carolyn@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: does this look okay? want to share with olem next thanks ng

++Mr. Wright separately authored an article in 2005 on dioxin risk in the American Bar Association's Natural Resources and Environment, describing dioxin as "highly toxic to a variety of animal species but not to humans." This goes against the opinion of several dioxin experts we spoke to.

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/30/2018 12:45:04 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: RE: RMP Talking Point

Will get this in first thing this morning Peter. Sorry I missed this on Friday!

Jackie

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Wright, Peter
Sent: Monday, July 30, 2018 6:29 AM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>
Subject: Fwd: RMP Talking Point

Jackie

We need to update this talking point paper as apparently the one included in the Administrator's book for the weekend did not include the highlighted bullet below.

In rereading the bullet point I would make a couple of further edits. First I would add an "s" after the word "believe." **Deliberative Process / Ex. 5**

Friday was a hectic day and I think you and others did a great job.

Peter

Sent from my iPad

Begin forwarded message:

> **From:** "Wright, Peter" <wright.peter@epa.gov>
> **Date:** July 27, 2018 at 1:42:49 PM EDT
> **To:** "Harwood, Jackie" <Harwood.Jackie@epa.gov>
> **Cc:** "Breen, Barry" <Breen.Barry@epa.gov>
> **Subject: RMP Talking Point**
>
> Jackie
>
> Here is the draft of the RMP talking point that I send you with an additional bullet for inclusion. The new bullet is highlighted and uses language from the Fed Reg.

Peter

Risk Management Plan (RMP) Rulemaking

Deliberative Process / Ex. 5

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/25/2018 1:05:32 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: RE: 2nd Email: FOR YOUR REVIEW: Additional Fact Sheets & Wheeler Briefing Questions

Thanks Peter – sounds good, I'll revise the fact sheet.

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Wright, Peter
Sent: Wednesday, July 25, 2018 9:04 AM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>; Manges, Ellen <Manges.Ellen@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Subject: RE: 2nd Email: FOR YOUR REVIEW: Additional Fact Sheets & Wheeler Briefing Questions

Jackie

On the Brownfields write up Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Peter

From: Harwood, Jackie
Sent: Tuesday, July 24, 2018 10:36 PM
To: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>; Manges, Ellen <Manges.Ellen@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: 2nd Email: FOR YOUR REVIEW: Additional Fact Sheets & Wheeler Briefing Questions
Importance: High

Hi Barry, Steven, and Peter,

Attached for your review are the additional Wheeler briefing materials. **Fact sheets are due to OCIR by noon Weds. If you don't have time to review all of them, I recommend focusing on the five OLEM Tier 2 fact sheets only**:

1. **Superfund site fact sheets for Wheeler's briefing, reviewed by OSRTI and Jim Woolford:**
    - Delaware Sand & Gravel – Cannon***
    - Ex. 5 Deliberative Process (DP)

2. **2nd Tier Fact Sheets – NOTE: These will go in Wheeler's background book. OCIR shortened OLEM's original tier 2 list because they have too many fact sheets.**
    - Hurricane preparedness
    - Hot Topics/Issues at Fed Facility Sites
    - UST Compliance deadline
    - Addressing Extreme Weather at Superfund Sites
    - Role of States in SF Program
    - Superfund Task Force (Not attached, providing press release instead of fact sheet)

3. **Questions (with answers) that OLEM program offices provided for you to use at Wheeler briefing.**

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Harwood, Jackie
Sent: Tuesday, July 24, 2018 5:35 PM
To: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>; Manges, Ellen <Manges.Ellen@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: FOR YOUR REVIEW: Initial Fact Sheets for Wheeler's briefing
Importance: High

Hi Barry, Steven, and Peter,

This is the first of several emails I'll be sending you with materials for Acting Administrator Wheeler's SEPW hearing. I apologize for sending the materials piecemeal, but some of them are taking longer to finalize than others and I wanted to give you an opportunity to start reviewing the fact sheets. Please let me know if you have any questions or concerns. Thanks.

Attached for your review are draft fact sheets on the topics that will be covered at the pre-brief tomorrow at 11:00 and OLEM's Wheeler briefing later this week. They have been approved by the ODs, and slightly edited/shortened by both Carolyn Levine and me. They include:

- Coal Ash – Steven (Barnes as backup)
- Brownfields -- Peter
- Risk Management Plan – Peter
- NEW Suggestion from OCIR: CERCLA/EPCRA Reporting & Recent Vacatur Rule
- Lead Exposure at Superfund Sites – Jim Woolford

The second and third emails I'll be sending you later tonight or tomorrow morning will include:

1. Program offices' suggested Q&As for you to ask Wheeler in the second part of the OLEM briefing.
2. Fact sheets on the Superfund Program Sites below.
   - Ex. 5 Deliberative Process (DP)

   NOTE: Peter will not participate in these site discussions:
   - Ex. 5 Deliberative Process (DP)
3. Second tier fact sheets. They will include the following topics:
   - SPCC
   - Hurricane preparedness
   - Spill Prevention Rule
   - 108(b)
   - PFAS at Fed Facility Sites
   - Hot Topics/Issues at Fed Facility Sites
   - Compliance deadline
   - Abandoned Minds and Mineral Processing Sites
   - Addressing Extreme Weather at Superfund Sites
   - Superfund Remedial Cleanup Program
   - Superfund Special Accounts
   - Superfund Task Force
   - Role of States in SF Program
   - Hazard Ranking System Revision

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/25/2018 2:36:18 AM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]
Subject: 2nd Email: FOR YOUR REVIEW: Additional Fact Sheets & Wheeler Briefing Questions
Attachments: FFRRO-FedFacilitySF.docx; OEM-Preparationfor2018 HurricaneSeason.docx; ORCR-E-Manifest.docx; OSRTI-AddressingExtremeWeatheratSFSites.docx; OSRTI-RoleofStatesinSFProgram.docx; OUST-USTRegulationandCompliance.docx; Final Site Fact Sheets.zip; QUESTIONSforWheelerBriefing.docx

Importance: High

Hi Barry, Steven, and Peter,

Attached for your review are the additional Wheeler briefing materials. **Fact sheets are due to OCIR by noon Weds. If you don't have time to review all of them, I recommend focusing on the five OLEM Tier 2 fact sheets only**:

1. **Superfund site fact sheets for Wheeler's briefing, reviewed by OSRTI and Jim Woolford:**
   - Ex. 5 Deliberative Process (DP)

2. **2nd Tier Fact Sheets – NOTE: These will go in Wheeler's background book. OCIR shortened OLEM's original tier 2 list because they have too many fact sheets.**
   - Hurricane preparedness
   - Hot Topics/Issues at Fed Facility Sites
   - UST Compliance deadline
   - Addressing Extreme Weather at Superfund Sites
   - Role of States in SF Program
   - Superfund Task Force (Not attached, providing press release instead of fact sheet)

3. **Questions (with answers) that OLEM program offices provided for you to use at Wheeler briefing.**

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Harwood, Jackie
Sent: Tuesday, July 24, 2018 5:35 PM
To: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>; Manges, Ellen <Manges.Ellen@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: FOR YOUR REVIEW: Initial Fact Sheets for Wheeler's briefing
Importance: High

Hi Barry, Steven, and Peter,

This is the first of several emails I'll be sending you with materials for Acting Administrator Wheeler's SEPW hearing. I apologize for sending the materials piecemeal, but some of them are taking longer to finalize than others and I wanted to give you an opportunity to start reviewing the fact sheets. Please let me know if you have any questions or concerns. Thanks.

Attached for your review are draft fact sheets on the topics that will be covered at the pre-brief tomorrow at 11:00 and OLEM's Wheeler briefing later this week. They have been approved by the ODs, and slightly edited/shortened by both Carolyn Levine and me. They include:

- Coal Ash – Steven (Barnes as backup)
- Brownfields -- Peter
- Risk Management Plan – Peter
- NEW Suggestion from OCIR: CERCLA/EPCRA Reporting & Recent Vacatur Rule
- Lead Exposure at Superfund Sites – Jim Woolford

The second and third emails I'll be sending you later tonight or tomorrow morning will include:

1. Program offices' suggested Q&As for you to ask Wheeler in the second part of the OLEM briefing.
2. Fact sheets on the Superfund Program Sites below.
   - Ex. 5 Deliberative Process (DP)

   NOTE: Peter will not participate in these site discussions:
   - Ex. 5 Deliberative Process (DP)
3. Second tier fact sheets. They will include the following topics:
   - SPCC

- Hurricane preparedness
- Spill Prevention Rule
- 108(b)
- PFAS at Fed Facility Sites
- Hot Topics/Issues at Fed Facility Sites
- Compliance deadline
- Abandoned Minds and Mineral Processing Sites
- Addressing Extreme Weather at Superfund Sites
- Superfund Remedial Cleanup Program
- Superfund Special Accounts
- Superfund Task Force
- Role of States in SF Program
- Hazard Ranking System Revision

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

Message

From: Cogliano, Gerain [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4BA589A367194EFD92030BFBE891A298-COGLIANO, GERAIN]
Sent: 8/13/2018 3:17:32 PM
To: Darwin, Veronica [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc98aaf2f15a466baede3dab0e27a35e-Darwin, Ver]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]
CC: Hostage, Barbara [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=13c503d29e7a4eceb13c449d182eca25-BHostage]; Noggle, William [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=24084230d263442f84dacc362c096c11-WNOGGLE]; Mattick, Richard [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0e8c40b64ab94f29a31d5654299a2935-RMATTI02]
Subject: RE: Update--- info for OLEM Actions Status Meeting with Brittany

Will do. Thanks for all the feedback! Very helpful

From: Darwin, Veronica
Sent: Monday, August 13, 2018 10:42 AM
To: Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>
Cc: Hostage, Barbara <Hostage.Barbara@epa.gov>; Noggle, William <Noggle.William@epa.gov>; Mattick, Richard <Mattick.Richard@epa.gov>
Subject: RE: Update--- info for OLEM Actions Status Meeting with Brittany

Hi again. I forgot to mention Brittany asked about the RMP proposed rule, Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 r

Veronica

From: Darwin, Veronica
Sent: Monday, August 13, 2018 10:28 AM
To: Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>
Cc: Hostage, Barbara <Hostage.Barbara@epa.gov>; Noggle, William <Noggle.William@epa.gov>; Mattick, Richard <Mattick.Richard@epa.gov>
Subject: RE: Update--- info for OLEM Actions Status Meeting with Brittany

Good Morning,
Find below notes (green text) from Friday's meeting with OP. Peter – please add anything I missed or got wrong. Let me know if you have any questions.
Have a great day!
Veronica

OLEM Actions Status Meeting

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Cogliano, Gerain
Sent: Friday, August 10, 2018 8:03 AM
To: Darwin, Veronica <darwin.veronica@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Cc: Hostage, Barbara <Hostage.Barbara@epa.gov>
Subject: Update--- info for OLEM Actions Status Meeting with Brittany

Hi all,

Just in case the following comes up in the meeting with Brittany today.

Deliberative Process / Ex. 5

Let me know if you have any questions or concerns.

Thanks,

Gerain

202-566-1929

From: Cogliano, Gerain
Sent: Wednesday, August 8, 2018 12:16 PM
To: Darwin, Veronica; Wright, Peter; Cook, Steven
Cc: Hostage, Barbara
Subject: info for OLEM Actions Status Meeting with Brittany

Deliberative Process / Ex. 5

If you have any questions, contact me. Thanks.

Gerain Cogliano
OLEM's Regulatory Steering Committee Representative

Policy and Regulatory Management Team Leader

Policy Analysis and Regulatory Management Staff (PARMS)
Office of Program Management (OPM)
Office of Land and Emergency Management (OLEM)

WJC West Room 4130
Phone Number: 202-566-1929
Fax Number: 202-566-1934
Mail Code: 5103T
cogliano.gerald@epa.gov

For ADP information:
http://intranet.epa.gov/adblibrary
http://intranet.epa.gov/olem/policy/index.htm

Message

From: Lyons, Troy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=15E4881C95044AB49C6C35A0F5EEF67E-LYONS, TROY]
Sent: 7/27/2018 2:22:17 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
CC: Levine, Carolyn [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=468b48e304cf4c54a52bb7c83a54fd21-CLevin02]; Palich, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=330ad62e158d43af93fcbbece930d21a-Palich, Chr]; Ringel, Aaron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1654bdc951284a6d899a418a89fb0abf-Ringel, Aar]; Frye, Tony (Robert) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=58c08abdfc1b4129a10456b78e6fc2e1-Frye, Rober]; Rodrick, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6515dbe46dae466da53c8a3aa3be8cc2-Rodrick, Ch]; Richardson, RobinH [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2fa5c9eb65dc497c81a8dc9ccdb1ffa7-Richardson, RobinH]; Shimmin, Kaitlyn [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=becb3f33f9a14acd8112d898cc7853c6-Shimmin, Ka]; Morgan, Ashley [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4acef44653d440e3baab09958ffc24ea-Morgan, Ash]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: OLEM Action Items

Importance: High

OLEM—thank you for your help with this morning's briefing. Please find below the action items from today's briefing. As I mentioned, we will need to get these turned around by COB today so the Administrator can review this weekend.

- Updated Talking Points—CERCLA/EPCRA

  Deliberative Process / Ex. 5

- Updated Lead at Superfund Sites

  Deliberative Process / Ex. 5

- Updated Talking Points--Coal Combustion Residuals

  Deliberative Process / Ex. 5

- Brownfields—6 Deliberative Process / Ex. 5

- Deliberative Process / Ex. 5

Troy M. Lyons
Associate Administrator
Office of Congressional & Intergovernmental Relations
U.S. Environmental Protection Agency
Personal Phone / Ex. 6 cell)

Message

From: Cheatham, Reggie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C04C7B4FBF4D45108592282991C719CB-RCHEATHA]
Sent: 8/17/2018 5:31:24 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Clark, Becki [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a906e07f1cd143b9a3c2ddab813b8140-Clark, Becki]; Jennings, Kim [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7eeab2bece9b461e949b23d538b7964a-kjenning]; Gioffre, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31f5c89e985847ecaeec14283e8fc914-PFLEMI02]; Indermark, Michele [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cf63a0730b3e4d89aa3b8ce9a5d9eab2-Indermark,]
Subject: Fwd: Adverse decision on RMP delay rule
Attachments: ENV_DEFENSE-#850627-v1-admin_su_aah_opinion.pdf; ATT00001.htm

I believe you all received this already from David...we are hoping to meet with OGC on Monday to discuss further. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks

Reggie Cheatham, Director
Office of Emergency Management
202/564-8003(w) 202/689-9400(c)
cheatham.reggie @epa.gov
Doris Williams, Executive Assistant
202/564-0053

Begin forwarded message:

From: "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>
Date: August 17, 2018 at 10:29:13 AM EDT
To: "Cheatham, Reggie" <cheatham.reggie@epa.gov>, "Clark, Becki" <Clark.Becki@epa.gov>, "Jennings, Kim" <Jennings.Kim@epa.gov>, "Belke, Jim" <Belke.Jim@epa.gov>, "Franklin, Kathy" <Franklin.Kathy@epa.gov>
Subject: Adverse decision on RMP delay rule

All- The DC Cir has issued the attached opinion vacating EPA's rulemaking to delay the effectiveness of amendments to the Risk Management Program. The summary from the opinion states:

"We hold that where EPA has exercised its Section 7607(d)(7)(B) authority to delay the effectiveness of a final rule, it cannot avoid that statute's express limitations by invoking general rulemaking authority under a different statutory provision. EPA's action was arbitrary and capricious in any event. Accordingly, we vacate the Delay Rule of June 14, 2017."

Please forward this as appropriate (I apologize for not knowing the full list). I have not had a chance to read the opinion yet but will send any additional thoughts once I do. Jon Averback and Brian Doster are both out today, so please direct any follow up to me. Thanks.

++++++++++++++++++++++++++++
(202) 564-5647 (o)
Personal Phone / Ex. 6

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/19/2018 9:36:58 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cheatham, Reggie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c04c7b4fbf4d45108592282991c719cb-RCheatha]; Clark, Becki [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a906e07f1cd143b9a3c2ddab813b8140-Clark, Becki]
CC: Jennings, Kim [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7eeab2bece9b461e949b23d538b7964a-kjenning]; Gioffre, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31f5c89e985847ecaeec14283e8fc914-PFLEMI02]; Indermark, Michele [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cf63a0730b3e4d89aa3b8ce9a5d9eab2-Indermark,]; Thomas, Latosha [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a405bd473fff4b80b3065d03d9b48eb9-LaThomas]; Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]
Subject: NEW: Senate EPW Letter on RMP
Attachments: 07.19.18 - EPA Letter on RMP Proposed Rule.pdf

Hi All,

Passing on a letter that came in today from all the Democrats on the Senate EPW Committee asking the Acting Administrator to withdraw the proposed RMP Rule.

This will likely come up at Wheeler's hearing on 8/1, so I'll work with OEM to make sure we have a draft fact sheet for the Acting Administrator responding to this.

Please let me know if you have any questions.

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

United States Senate

WASHINGTON, DC 20510

July 19, 2018

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

Dear Acting Administrator Wheeler:

We urge you to withdraw the Environmental Protection Agency's (EPA's) May 17, 2018 proposed rule to modify the Amendments to the Accidental Release Prevention Requirements for Risk Management Programs (RMP) under the Clean Air Act. The EPA's original proposed RMP rule, finalized in January 2017, provided needed protections for industrial facilities that store hazardous chemicals in communities around the country and was based on a robust record showing the need for these updates. We previously expressed strong opposition to the EPA's June 2017 decision delaying implementation of the January 2017 rule. This latest proposal to undo the critical safety, transparency, and emergency response requirements proposed by the original rule places thousands of first responders, facility workers, and fenceline communities at risk.

We are particularly concerned by a number of provisions in this new proposal, including:

- The elimination of the requirement for chemical facilities with the worst records of serious incidents to evaluate and consider safer technologies and alternatives to minimize risks before an accident occurs.
- The reinstatement of restrictions on public access to information about what chemicals are being stored in facilities, which will hinder first responders' ability to respond appropriately to a chemical disaster or emergency release in their neighborhoods.
- Weakened requirements for chemical facilities to coordinate with local governments on response protocols for chemical disasters or emergency releases.
- The elimination of the requirement to complete an incident report within 12 months following an accident at the chemical facility, which is key for understanding why an accident occurred and how future incidents can be prevented.
- The elimination of the requirement for chemical facilities to use independent, third-party auditors to verify facility compliance.

On top of these concerning safety rollbacks, we are extremely disturbed that the EPA chose to move forward with issuing this proposed rule despite the agency's finding that "there is evidence that risks from RMP facilities fall on minority and low-income populations, to a significantly greater degree than those risks affect other populations." The EPA therefore acknowledges that this action may have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and indigenous peoples. The EPA's assertion that the potential annual cost savings of $88 million—to an industry valued at more than $767

ED_002087_00001319-00001

billion—justifies this action in spite of its obvious negative impacts on these vulnerable communities is in blatant disregard of the EPA's mission to protect human health and the environment.

All Americans have the right to live, raise their families, and work in a community that is protected from chemical disasters. The January 2017 amendments will save lives, ensure a safer working environment for industrial workers and first responders, and provide needed protections for communities across the United States. Please withdraw this latest, misguided EPA proposal, and instead move to immediately implement the EPA's original final amendments to the RMP.

Sincerely,

Cory A. Booker
United States Senator

Tom Carper
United States Senator

Sheldon Whitehouse
United States Senator

Tammy Duckworth
United States Senator

Benjamin L. Cardin
United States Senator

Edward J. Markey
United States Senator

Kamala D. Harris
United States Senator

Jeffrey A. Merkley
United States Senator

ED_002087_00001319-00002

Chris Van Hollen
United States Senator

Kirsten Gillibrand
United States Senator

Bernard Sanders
United States Senator

ED_002087_00001319-00003

Message

From: Cook, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=394F5DEDE6184BC083CF9390E49A192C-COOK, STEVE]
Sent: 7/12/2018 10:57:17 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Lloyd, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3deede75db8e44a790b2f73debf00e12-Lloyd, David]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]
Subject: RE: TPs for Barry Breen for Administrator's Staff Meeting on Monday

David – suggest that we have a couple of specific details Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Wright, Peter
Sent: Thursday, July 12, 2018 6:49 PM
To: Lloyd, David <Lloyd.DavidR@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>
Subject: RE: TPs for Barry Breen for Administrator's Staff Meeting on Monday

David and Barry

I do not have any comments.

Peter

From: Lloyd, David
Sent: Thursday, July 12, 2018 4:20 PM
To: Breen, Barry <Breen.Barry@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Overmeyer, Patricia <Overmeyer.Patricia@epa.gov>; Woolford, James <Woolford.James@epa.gov>; Stalcup, Dana <Stalcup.Dana@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Quinn, Megan <Quinn.Megan@epa.gov>; Gorini, Kelly <Gorini.Kelly@epa.gov>; Lentz, Rachel <Lentz.Rachel@epa.gov>; Macula, Joseph <macula.joseph@epa.gov>; Storm, Aimee <storm.aimee@epa.gov>
Subject: TPs for Barry Breen for Administrator's Staff Meeting on Monday

Barry – I haven't discussed with Jim and Dana yet, but at the end of the Kaizen Progress meeting with Henry Darwin this morning, Kevin DeBell asked if we could provide you with some talking points you could deliver at the Administrator's Senior Staff Meeting Monday regarding Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

David R. Lloyd, Director
Office of Brownfields and Land Revitalization
U.S. Environmental Protection Agency
Washington, DC
202-566-2731

Message

From: Konkus, John [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=555471B2BAA6419E8E141696F4577062-KONKUS, JOH]
Sent: 8/17/2018 2:45:28 PM
To: Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=febaf0d56aab43f8a9174b18218c1182-Fotouhi, Da]; Leopold, Matt (OGC) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]; Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]; Bolen, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31e872a691114372b5a6a88482a66e48-Bolen, Brit]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: RE: Adverse decision in Air Alliance Houston v. EPA

Thanks. Press questions coming in -- "We are reviewing the decision" going out.

From: Fotouhi, David
Sent: Friday, August 17, 2018 10:25 AM
To: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Konkus, John <konkus.john@epa.gov>
Subject: FW: Adverse decision in Air Alliance Houston v. EPA
Importance: High

The D.C. Circuit has just issued an opinion vacating EPA's rule delaying the effective date of the RMP Amendments rule, holding that it was arbitrary and capricious. The opinion is attached to this e-mail; we are reviewing it in detail and will follow up.

Best,

David

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Srinivasan, Gautam
Sent: Friday, August 17, 2018 10:17 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: FW: Adverse decision in Air Alliance Houston v. EPA
Importance: High

Have not read but looks like a loss on the statutory authority question (as well as A&C).

++++++++++++++++++++++++++++

(202) 564-5647 (o)
(202) 695-6287 (c)

From: Lipshultz, Jon (ENRD) [mailto:Jon.Lipshultz@usdoj.gov]
Sent: Friday, August 17, 2018 10:09 AM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Averback, Jonathan <Averback.Jonathan@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Cc: Talbert, Stephanie (ENRD) <Stephanie.Talbert@usdoj.gov>
Subject: Adverse decision in Air Alliance Houston v. EPA

All – I have not read it yet, but the DC Circuit just issued an adverse decision in the Air Alliance Houston matter, involving the postponement of compliance dates for the accidental release Clean Air Act rule. A copy of the decision is attached. It is a per curiam decision by Judges Rogers and Wilkins. Judge Kavanaugh was on the panel but did not participate in the decision. Jack

Jack Lipshultz
Assistant Section Chief
Environmental Defense Section
202-514-2191

Message

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 8/17/2018 2:25:10 PM
To: Leopold, Matt (OGC) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]; Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]; Bolen, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31e872a691114372b5a6a88482a66e48-Bolen, Brit]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Konkus, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=555471b2baa6419e8e141696f4577062-Konkus, Joh]
Subject: FW: Adverse decision in Air Alliance Houston v. EPA
Attachments: ENV_DEFENSE-#850627-v1-admin_su_aah_opinion.PDF

Importance: High

The D.C. Circuit has just issued an opinion vacating EPA's rule delaying the effective date of the RMP Amendments rule, holding that it was arbitrary and capricious. The opinion is attached to this e-mail; we are reviewing it in detail and will follow up.

Best,

David

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Srinivasan, Gautam
Sent: Friday, August 17, 2018 10:17 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: FW: Adverse decision in Air Alliance Houston v. EPA
Importance: High

Have not read but looks like a loss on the statutory authority question (as well as A&C).

++++++++++++++++++++++++++++++
(202) 564-5647 (o)
(202) 695-6287 (c)

From: Lipshultz, Jon (ENRD) [mailto:Jon.Lipshultz@usdoj.gov]
Sent: Friday, August 17, 2018 10:09 AM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Averback, Jonathan <Averback.Jonathan@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>

Cc: Talbert, Stephanie (ENRD) <Stephanie.Talbert@usdoj.gov>
Subject: Adverse decision in Air Alliance Houston v. EPA

All – I have not read it yet, but the DC Circuit just issued an adverse decision in the Air Alliance Houston matter, involving the postponement of compliance dates for the accidental release Clean Air Act rule. A copy of the decision is attached. It is a per curiam decision by Judges Rogers and Wilkins. Judge Kavanaugh was on the panel but did not participate in the decision. Jack

Jack Lipshultz
Assistant Section Chief
Environmental Defense Section
202-514-2191

Message

From: Simon, Nigel [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E2F1084D32324DCD965683A9D2F09764-SIMON, NIGEL]
Sent: 7/12/2018 10:19:15 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]
Subject: FYSA: Monthly Kaizen Projects Meeting Slide Deck - Thursday, July 12.
Attachments: Monthly Project Meeting Report_071218.pptx

For Your Situational Awareness (FYSA) - I just sent this to the ODs/Deputies.

==========

-----Original Message-----
From: Simon, Nigel
Sent: Thursday, July 12, 2018 6:17 PM
To: OLEM OD Deputies <OLEMODDeputies@epa.gov>; Nicholas, David <Nicholas.David@epa.gov>; Dawes, Katherine <Dawes.Katherine@epa.gov>; Sullivan, Karen <Sullivan.Karen@epa.gov>
Subject: Monthly Kaizen Projects Meeting Slide Deck - Thursday, July 12.

ODs/Deputies:

FYI. Attached is the slide deck from today's monthly Kaizen projects meeting. Each process owner had to provide an update/status of his or her project. Some to pay particular attention to are:

Ex. 5 Deliberative Process (DP)

Message

From: Block, Molly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=60D0C681A16441A0B4FA16AA2DD4B9C5-BLOCK, MOLL]
Sent: 8/21/2018 3:38:08 PM
To: Abboud, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b6f5af791a1842f1adcc088cbf9ed3ce-Abboud, Mic]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Konkus, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=555471b2baa6419e8e141696f4577062-Konkus, Joh]; Beach, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6b124299bb6f46a39aa5d84519f25d5d-Beach, Chri]; Hewitt, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=41b19dd598d340bb8032923d902d4bd1-Hewitt, Jam]
Subject: RE: Court sends part of coal ash rule back for EPA rewrite

This is coal ash... Taking off OAR and adding OLEM

From: Abboud, Michael
Sent: Tuesday, August 21, 2018 11:35 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Woods, Clint <woods.clint@epa.gov>
Cc: Konkus, John <konkus.john@epa.gov>; Block, Molly <block.molly@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Hewitt, James <hewitt.james@epa.gov>
Subject: Fwd: Court sends part of coal ash rule back for EPA rewrite

We expected this to happen correct?

Sent from my iPad

Begin forwarded message:

> **From:** "POLITICO Pro Energy Whiteboard" <politicoemail@politicopro.com>
> **Date:** August 21, 2018 at 11:31:58 AM EDT
> **To:** <abboud.michael@epa.gov>
> **Subject: Court sends part of coal ash rule back for EPA rewrite**
> **Reply-To:** "POLITICO subscriptions" <reply-fe8b13767661017c7c-1158573_HTML-820854487-1376319-0@politicoemail.com>
>
> By Eric Wolff
>
> 08/21/2018 11:30 AM EDT
>
> The U.S. Court of Appeals for the D.C. Circuit handed environmentalists a partial victory today in a ruling that remanded parts of EPA's 2015 rule regulating coal ash ponds back to the agency.
>
> The three-judge panel, which included two Obama appointees and a George H. W. Bush appointee, rejected the administration's request to hold the case in abeyance while the agency reviewed provisions of the rule at utilities' request. The court agreed to EPA's request to allow it to rewrite parts of the rule, specifically provisions related to the definition of residual coal ash.

Greens scored a win in persuading the court to order EPA to redo parts of the rule that allowed utilities to keep using unlined coal ash ponds unless the ponds start leaking, and it said "clay lined" ponds did not qualify as lined.

The ruling comes as EPA works to ease rules on coal ash disposal. In one of his first acts in charge of the agency, acting EPA Administrator Andrew Wheeler signed changes to the 2015 rule that gave states more latitude to set their own requirements. EPA hopes to complete additional revisions by the end of next year.

Coal ash ponds, which utilities use to store waste from coal-burning power plants, have been a controversial issue in states like North Carolina, which suffered a major spill of coal ash into the Dan River in 2014.

To view online:
https://subscriber.politicopro.com/energy/whiteboard/2018/08/court-sends-part-of-coal-ash-rule-back-for-epa-rewrite-1785478

You received this POLITICO Pro content because your customized settings include: Energy: EPA; Energy: Regulations; Energy: Coal. To change your alert settings, please go to https://subscriber.politicopro.com/settings

POLITICOPRO

This email alert has been sent for the exclusive use of POLITICO Pro subscriber, abboud.michael@epa.gov. Forwarding or reproducing the alert without the express, written permission of POLITICO Pro is a violation of copyright law and the POLITICO Pro subscription agreement.

Copyright © 2018 by POLITICO LLC. All rights reserved. To subscribe to Pro, please go to politicopro.com.

This email was sent to abboud.michael@epa.gov by: POLITICO, LLC 1000 Wilson Blvd. Arlington, VA, 22209, USA

Message

From: Brooks, Becky [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6F369A2EF33E4A87AF349210A3915A57-BBROOKS]
Sent: 7/19/2018 6:34:52 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Simon, Nigel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2f1084d32324dcd965683a9d2f09764-Simon, Nigel]
CC: Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]
Subject: For Review -- LEAN Moment July 23

Below are draft bullet points for the LEAN Moment at the July 23 agency staff meeting. They were developed by OSRTI and OBLR and reviewed by OCPA. Please let us know if you have any comments. Do you know if these get passed out to folks or are they just for one of you to speak from at the meeting?

Deliberative Process / Ex. 5

Becky Brooks
Special Assistant
Office of Land and Emergency Management
U.S. Environmental Protection Agency
ph. 202-566-2762

Message

From: Cook, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=394F5DEDE6184BC083CF9390E49A192C-COOK, STEVE]
Sent: 8/15/2018 1:44:05 PM
To: Darwin, Veronica [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc98aaf2f15a466baede3dab0e27a35e-Darwin, Ver]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: RE: metrics; abandoned mines, rulemakings

Deliberative Process / Ex. 5

From: Darwin, Veronica
Sent: Wednesday, August 15, 2018 8:58 AM
To: Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Subject: metrics; abandoned mines, rulemakings

Good Morning,
As a follow-up to my discussion with Steven on Monday, I reached out to Katherine Dawes who is working on posting performance measures in OLEM's IO. I have asked to meet with her on Friday to discuss progress thus far – will have an update for you by the end of the week. (Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 Thanks. Happy to discuss.
Veronica

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Darwin, Veronica [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BC98AAF2F15A466BAEDE3DAB0E27A35E-DARWIN, VER]
Sent: 8/15/2018 12:57:33 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: metrics; abandoned mines, rulemakings
Attachments: Tracking Priority Actions OLEM.XLSX

Good Morning,
As a follow-up to my discussion with Steven on Monday, I reached out to Katherine Dawes who is working on posting performance measures in OLEM's IO. I have asked to meet with her on Friday to discuss progress thus far – will have an update for you by the end of the week. (Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 Thanks. Happy to discuss.
Veronica

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Wilbur, Jennifer [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=20F13C4294314508B1B2779E27EC4FE6-JWILBU02]
Sent: 7/19/2018 3:09:27 PM
To: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Simon, Nigel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2f1084d32324dcd965683a9d2f09764-Simon, Nigel]
Subject: FW: Passage of the House Interior Bill

From: Sebring, Meridith
Sent: Thursday, July 19, 2018 11:08 AM
To: Breen, Barry <Breen.Barry@epa.gov>
Cc: Wilbur, Jennifer <Wilbur.Jennifer@epa.gov>; Siegel, Kelly C. <Siegel.KellyC@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: Passage of the House Interior Bill

Barry,

Just now, H.R. 6147, The Interior, Environment, Financial Services and General Government Appropriations Act, 2019, passed by a vote of 217 – 199. T

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Meridith Sebring
OLEM/ARMS
Office: 202-566-1909
Cell: Personal Phone / Ex. 6

Message

From: Johnson, Barnes [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C39E9338CBF04DC3B4B29F78E5213303-JOHNSON, BARNES]
Sent: 8/21/2018 3:09:16 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; ORCR IO [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=feb18e156b3547d1881d93c5893396f8-ORCR IO]; Devlin, Betsy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b76a4bf5afc84459a6bf2a6a4645f40f-BDEVLIN]; Elliott, Ross [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33cb08013cc94c21a3e3236dbad4c4a4-REELLIOT]
Subject: Recent DC Circuit Activity
Attachments: ENV_DEFENSE-#850820-v1-USWAG_v__EPA_Opinion.pdf; ENV_DEFENSE-#850811-v1-Cal__Comm__v___EPA_Petitioners__Brief.pdf

Dear Barry et al.,

I thought I would share a couple of actions that we just received today both of which we will need to engage on.

Deliberative Process / Ex. 5

2) I have also attached the 70+ page decision from the DC circuit on CCR. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Barnes Johnson
USEPA | Resource Conservation and Recovery | Tel 703-308-8895 |
johnson.barnes@epa.gov | @EPAland

ORAL ARGUMENT NOT YET SCHEDULED

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 18-1163

CALIFORNIA COMMUNITIES AGAINST TOXICS, *et al.*,
Petitioners,

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, *et al.*,
Respondents.

PETITION FOR REVIEW OF FINAL ADMINISTRATIVE ACTIONS OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

PROOF OPENING BRIEF OF PETITIONERS

Khushi Desai
James S. Pew
Earthjustice
1625 Massachusetts Ave., NW
Suite 702
Washington, DC 20036-2243
(202) 667-4500
kdesai@earthjustice.org
jpew@earthjustice.org

Counsel for Petitioners California Communities Against Toxics, Clean Air Council, Coalition for a Safe Environment, Community In-Power and Development Association, Louisiana Bucket Brigade, Louisiana Environmental Action Network, Sierra Club, and Texas Environmental Justice Advocacy Services

DATED: August 20, 2018

ORAL ARGUMENT NOT YET SCHEDULED

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

CALIFORNIA COMMUNITIES AGAINST TOXICS, *et al.*, *Petitioners*, v. U.S. ENVIRONMENTAL PROTECTION AGENCY, *et al.*, *Respondents*.	Case No. 18-1163

CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

Pursuant to DC Circuit Rule 28(a)(1), Petitioners California Communities Against Toxics, Clean Air Council, Coalition for a Safe Environment, Community In-Power and Development Association, Louisiana Bucket Brigade, Louisiana Environmental Action Network, Sierra Club, and Texas Environmental Justice Advocacy Services submit this certificate as to parties, rulings, and related cases.

(A) Parties and *Amici*

(i) Parties, Intervenors, and *Amici* Who Appeared in the District Court

This case is a petition for review of final agency action, not an appeal from the ruling of a district court.

(ii) Parties to This Case

Petitioners:

The petitioners in the above-captioned case are California Communities Against Toxics, Clean Air Council, Coalition for a Safe Environment, Community In-Power and Development Association, Louisiana Bucket Brigade, Louisiana Environmental Action Network, Sierra Club, and Texas Environmental Justice Advocacy Services.

Respondents:

The respondents in the above-captioned case are the United States Environmental Protection Agency and Andrew Wheeler, in his official capacity as Acting Administrator of the United States Environmental Protection Agency.

Intervenors:

Utility Solid Waste Activities Group, Edison Electronic Institute, National Rural Electric Cooperative Association, the American Gas Association, the American Public Power Association, the American Petroleum Institute, American Fuel & Petrochemical Manufacturers, Freeport-McMoRan Inc., Metals Industries Recycling Coalition, American Coke and Coal Chemicals Institute, American Forest & Paper Association, National Association of Manufacturers, the American Chemistry Council and the Society of Chemical Manufacturers and Affiliates have been granted leave to intervene in support of Respondents.

(iii) *Amici* in This Case

None at present.

(iv) Circuit Rule 26.1 Disclosures

See disclosure statement filed herewith.

(B) Rulings Under Review

Petitioners seek review of the following final actions taken by EPA: (1) "Revisions to the Definition of Solid Waste," 73 Fed. Reg. 64,668 (Oct. 30, 2008) ("2008 DSW Rule"), and (2) "Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule," 83 Fed. Reg. 24,664 (May 30, 2018) ("2018 DSW Rule").

(C) Related Cases

None.

DATED: August 20, 2018

Respectfully submitted,

/s/Khushi Desai

Khushi Desai
James S. Pew
Earthjustice
1625 Massachusetts Ave., NW
Suite 702
Washington, DC 20036-2243
(202) 667-4500
kdesai@earthjustice.org
jpew@earthjustice.org

Counsel for Petitioners California Communities Against Toxics, Clean Air Council, Coalition for a Safe Environment, Community In-Power and Development Association,

Louisiana Bucket Brigade, Louisiana Environmental Action Network, Sierra Club, and Texas Environmental Justice Advocacy Services

ORAL ARGUMENT NOT YET SCHEDULED

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

CALIFORNIA COMMUNITIES AGAINST TOXICS, *et al.*, *Petitioners*, v. U.S. ENVIRONMENTAL PROTECTION AGENCY, *et al.*, *Respondents*.	Case No. 18-1163

RULE 26.1 DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and D.C. Circuit Rule 26.1, Petitioners California Communities Against Toxics, Clean Air Council, Coalition for a Safe Environment, Community In-Power and Development Association, Louisiana Bucket Brigade, Louisiana Environmental Action Network, Sierra Club, and Texas Environmental Justice Advocacy Services make the following disclosures:

California Communities Against Toxics

Non-Governmental Corporate Party to this Action: California Communities Against Toxics ("CCAT").

Parent Corporations: None.

Publicly Held Company that Owns 10% or More of Party's Stock: None.

Party's General Nature and Purpose: CCAT is a non-profit organization that is a project of a non-profit corporation (Del Amo Action Committee) that is organized and existing under the laws of the State of California. It is an environmental justice network that aims to reduce exposure to pollution, to expand knowledge about the effects of toxic chemicals on human health and the environment, and to protect the most vulnerable people from harm.

Clean Air Council

Non-Governmental Corporate Party to this Action: Clean Air Council ("CAC").

Parent Corporations: None.

Publicly Held Company that Owns 10% or More of Party's Stock: None.

Party's General Nature and Purpose: CAC, a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, is a non-profit organization focused on protection of public health and the environment.

Coalition For A Safe Environment

Non-Governmental Corporate Party to this Action: Coalition For A Safe Environment ("CFASE").

Parent Corporations: None.

Publicly Held Company that Owns 10% or More of Party's Stock: None.

Party's General Nature and Purpose: CFASE is a non-profit organization based in Wilmington, California, dedicated to improving the environment, public health, public safety, and socio-economic justice through advocacy, community organizing, research, and public education.

Community In-Power and Development Association

Non-Governmental Corporate Party to this Action: Community In-Power and Development Association ("CIDA").

Parent Corporations: None.

Publicly Held Company that Owns 10% or More of Party's Stock: None.

Party's General Nature and Purpose: CIDA is a nonprofit organization that empowers and assists residents of the low-income Port Arthur, Texas communities to promote and advocate for socially responsible industrial operations and the reduction of pollution, including toxic air releases.

Louisiana Bucket Brigade

Non-Governmental Corporate Party to this Action: Louisiana Bucket Brigade ("LABB").

Parent Corporations: None.

Publicly Held Company that Owns 10% or More of Party's Stock: None.

Party's General Nature and Purpose: LABB is a non-profit environmental health and justice organization organized and existing under the laws of the State of

Louisiana. LABB works with communities that neighbor Louisiana's oil refineries and chemical plants and uses grassroots action to create an informed, healthy society with a culture that holds the petrochemical industry and government accountable for the true costs of pollution to create a healthy, prosperous, pollution-free, and just state where people and the environment are valued over profit.

Louisiana Environmental Action Network

Non-Governmental Corporate Party to this Action: Louisiana Environmental Action Network ("LEAN").

Parent Corporations: None.

Publicly Held Company that Owns 10% or More of Party's Stock: None.

Party's General Nature and Purpose: LEAN is a corporation organized and existing under the laws of the State of Louisiana. LEAN is a non-profit organization that works with its members and citizens' groups throughout the State of Louisiana to develop, implement, protect, and enforce legislative and regulatory environmental safeguards.

Sierra Club

Non-Governmental Corporate Party to this Action: Sierra Club.

Parent Corporations: None.

Publicly Held Company that Owns 10% or More of Party's Stock: None.

Party's General Nature and Purpose: Sierra Club, a corporation organized and existing under the laws of the State of California, is a national nonprofit organization dedicated to the protection and enjoyment of the environment.

Texas Environmental Justice Advocacy Services

Non-Governmental Corporate Party to this Action: Texas Environmental Justice Advocacy Services ("t.e.j.a.s.").

Parent Corporations: None.

Publicly Held Company that Owns 10% or More of Party's Stock: None.

Party's General Nature and Purpose: t.e.j.a.s. is a non-profit corporation organized and existing under the laws of the state of Texas. t.e.j.a.s. promotes environmental protection through education, policy development, community awareness, and legal action to ensure that everyone, regardless of race or income, is entitled to live in a clean environment.

DATED: August 20, 2018

Respectfully submitted,

/s/Khushi Desai

Khushi Desai
James S. Pew
Earthjustice
1625 Massachusetts Ave., NW
Suite 702
Washington, DC 20036-2243
(202) 667-4500
jpew@earthjustice.org
kdesai@earthjustice.org

Counsel for Petitioners California Communities Against Toxics, Clean Air Council, Coalition for a Safe Environment, Community In-Power and Development Association, Louisiana Bucket Brigade, Louisiana Environmental Action Network, Sierra Club, and Texas Environmental Justice Advocacy Services

TABLE OF CONTENTS

TABLE OF AUTHORITIES iii
GLOSSARY OF ACRONYMS AND ABBREVIATIONS vii
JURISDICTIONAL STATEMENT 1
STATEMENT OF ISSUES 2
STATUTES AND REGULATIONS 3
STATEMENT OF FACTS 3
I. INTRODUCTION 3
II. HAZARDOUS WASTE AND THE RISKS IT PRESENTS TO HUMAN HEALTH AND THE ENVIRONMENT 3
III. STATUTORY BACKGROUND 7
A. Cradle-To-Grave Regulatory System. 7
B. Definition of Solid Waste. 8
IV. REGULATORY AND LITIGATION BACKGROUND 12
A. The Transfer-Based Exclusion. 12
B. Sierra Club's Challenge to the 2008 DSW Rule. 14
C. EPA's Voluntary Elimination of the Transfer-Based Exclusion. 15
D. The Revival and Expansion of the Transfer-Based Exclusion. 19
SUMMARY OF THE ARGUMENT 22
STANDARD OF REVIEW 24
STANDING 25
ARGUMENT 30
I. THE TRANSFER-BASED EXCLUSION UNLAWFULLY EXCLUDES HAZARDOUS WASTE FROM RCRA REGULATION 30
A. The Transfer-Based Exclusion Contravenes RCRA. 30
B. The Transfer-Based Exclusion is Unreasonable and Arbitrary. 33
II. EPA'S RELIANCE ON THE CONDITIONS OF THE TRANSFER-BASED EXCLUSION IS ARBITRARY AND CAPRICIOUS 39
A. EPA Fails to Provide a Reasoned Basis for Treating the Same Hazardous Wastes Differently. 39

B. EPA Itself has Found the Transfer-Based Exclusion's Conditions Inadequate. 44

CONCLUSION AND RELIEF REQUESTED 46

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT....48

CERTIFICATE OF SERVICE 49

ADDENDUM ....Separately Bound

DECLARATION

STATUTES AND REGULATIONS

TABLE OF AUTHORITIES

CASES **PAGE(S)**

Alaska v. U.S. Dept. of Ag.,
772 F.3d 899 (D.C. Cir. 2014).....2

American Mining Congress v. EPA,
824 F.2d 1177 (D.C. Cir. 1987) ("*AMC I*").....7-10, 31, 32, 35, 37

American Mining Congress v. EPA,
907 F.2d 1179 (D.C. Cir. 1990) ("*AMC II*").....9, 11, 31

American Petroleum Institute v. EPA,
862 F.3d 50 (D.C. Cir. 2017).....1, 9, 19, 20, 31, 46

American Petroleum Institute v. EPA,
883 F.3d 918 (D.C. Cir. 2018).....1, 20

American Petroleum Institute v. EPA,
906 F.2d 729 (D.C. Cir. 1990) ("*API I*").....9, 10, 31, 37

Ass'n of Battery Recyclers v. EPA,
208 F.3d 1047 (D.C. Cir. 2000) ("*ABR*").....9, 11, 31

Chevron U.S.A. Inc. v. Nat. Res. Def. Council,
467 U.S. 837 (1984).....24

Honeywell International v. EPA,
705 F.3d 470 (D.C. Cir. 2013).....2

ITT Indus. v. NLRB,
413 F.3d 64 (D.C. Cir. 2005).....35

Massachusetts v. Dep't of Transp.,
93 F.3d 890 (D.C. Cir. 1996).....24, 34

**Motor Vehicle Mfrs. Ass'n. v. State Farm Mut. Auto. Ins. Co.*,
463 U.S. 29 (1983).....24, 36, 38, 40, 43

* Authorities upon which we chiefly rely are marked with an asterisk.

Petit v. Dep't of Educ.,
675 F.3d 769 (D.C. Cir. 2012).....32

Public Citizen v. HHS,
332 F.3d 654 (D.C. Cir. 2003).....24, 35

Rettig v. Pension Benefit Guar. Corp.,
744 F.2d 133 (D.C. Cir. 1984).....36

Safe Food and Fertilizer v. EPA,
350 F.3d 1263 (D.C. Cir. 2003).....9, 11, 12, 31, 35

**Shell Oil Co. v. EPA*,
950 F.2d 741 (D.C. Cir. 1991).....9, 11, 32, 37, 39, 44

State of New York v. EPA,
443 F.3d 880 (D.C. Cir. 2006).....38

Transactive Corp. v. United States,
91 F.3d 232 (D.C. Cir. 1996).....25, 40

U.S. Telecom Ass'n v. FCC,
359 F.3d 554 (D.C. Cir. 2004).....33

UARG v. EPA,
134 S. Ct. 2427 (2014).....37, 38

Village of Barrington, Ill. v. Surface Transp. Bd.,
636 F.3d 650 (D.C. Cir. 2011).....24, 35

STATUTES

42 U.S.C. § 6903(5).....9

42 U.S.C. § 6903(7).....8, 10

42 U.S.C. § 6903(23).....10

42 U.S.C. § 6903(27).....9

42 U.S.C. § 6912.....1

ED_002087_00001414-00015

42 U.S.C. § 6922 42

42 U.S.C. § 6922(a) 8

42 U.S.C. § 6923(a) 8

42 U.S.C. § 6924(a) 8

42 U.S.C. § 6925 ..... 14, 41, 42

42 U.S.C. § 6976(a)(1) 1

REGULATIONS

40 C.F.R. § 260.10 ..... 14, 41

40 C.F.R. § 261.1(c)(4) 10

40 C.F.R. § 261.1(c)(7) 10

40 C.F.R. § 261.1(c)(8) 14, 41

40 C.F.R. § 261.2(c) 10

40 C.F.R. § 261.2(c)(3) 10

40 C.F.R. § 261.4(a)(24)(i) 14, 41, 46

40 C.F.R. § 261.4(a)(24)(v)(B) 14, 42, 46

40 C.F.R. § 261.4(a)(25) 46

40 C.F.R. § 262.16 ..... 13, 41

40 C.F.R. § 262.17 ..... 13, 41

40 C.F.R. part 264, subparts I, J, AA, BB, CC, DD 13, 14, 41

LEGISLATIVE HISTORY

H.R. Rep. 94-1491, pt. I (1976),
as reprinted in 1976 U.S.C.C.A.N. 6238 7

FEDERAL REGISTER NOTICES

45 Fed. Reg. 33,084 (May 19, 1980) 3, 4

60 Fed. Reg. 57,747 (Nov. 20, 1995) 6, 7

63 Fed. Reg. 42,110 (Aug. 6, 1998) 6, 7

72 Fed. Reg. 14,172 (Mar. 25, 2007) 30-35, 37

73 Fed. Reg. 64,668 (Oct. 30, 2008).....1, 12, 13, 20, 21, 30-32, 35-40, 43

76 Fed. Reg. 44,094 (July 22, 2011)..... 15-18, 36, 43

80 Fed. Reg. 1694 (Jan. 13, 2015) 16-18, 30, 31, 33, 36, 44, 45

83 Fed. Reg. 24,664 (May 30, 2018) 1, 21

ED_002087_00001414-00017

GLOSSARY OF ACRONYMS AND ABBREVIATIONS

Pursuant to DC Circuit Rule 28(a)(3), the following is a glossary of acronyms and abbreviations used in this brief:

2008 DSW Rule	73 Fed. Reg. 64,668 (Oct. 30, 2008), "Revisions to the Definition of Solid Waste"
2015 DSW Rule	80 Fed. Reg. 1694 (Jan. 13, 2015), "Definition of Solid Waste"
2018 DSW Rule	83 Fed. Reg. 24,664 (May 30, 2008), "Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule"
ABR	*Ass'n of Battery Recyclers v. EPA*, 208 F.3d 1047, 1054 (D.C. Cir. 2000)
AMC I	*Am. Min. Cong. v. EPA*, 824 F.2d 1177 (D.C. Cir. 1987)
AMC II	*Am. Min. Cong. v. EPA*, 907 F.2d 1179 (D.C. Cir. 1990)
API I	*Am. Petroleum Inst. v. EPA*, 906 F.2d 729 (D.C. Cir. 1990)
Petitioners	California Communities Against Toxics, Clean Air Council, Coalition for a Safe Environment, Community In-Power and Development Association, Louisiana Bucket Brigade, Louisiana Environmental Action Network, Sierra Club, and Texas Environmental Justice Advocacy Services
Decl.	Declaration
EPA	Respondents U.S. Environmental Protection Agency and Acting Administrator Andrew Wheeler
JA	Joint Appendix
PCBs	Polychlorinated biphenyls

RCRA	Resource Conservation and Recovery Act

JURISDICTIONAL STATEMENT

Agency. Respondents U.S. Environmental Protection Agency and Acting Administrator Andrew Wheeler (collectively, "EPA" or "the agency") have jurisdiction to issue rules under the Resource Conservation and Recovery Act ("RCRA"). 42 U.S.C. § 6912.

Court of Appeals. Pursuant to 42 U.S.C. § 6976(a)(1), this Court has jurisdiction to review the final regulations challenged in this case: "Revisions to the Definition of Solid Waste," 73 Fed. Reg. 64,668 (Oct. 30, 2008) ("2008 DSW Rule"), and "Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule," 83 Fed. Reg. 24,664 (May 30, 2018) ("2018 DSW Rule").

Timeliness. This petition for review was timely filed on June 12, 2018, in accordance with 42 U.S.C. § 6976(a)(1). Petitioners' challenge to the 2018 DSW Rule is timely within that provision's 90-day review period, and their challenge to the 2008 DSW Rule is timely pursuant to the provision's allowance for challenges after the ninetieth day "if such petition for review is based solely on grounds arising after such ninetieth day." *See* 42 U.S.C. § 6976(a)(1). The after-arising grounds on which Petitioners' challenge to the 2008 DSW Rule are based are the 2018 DSW Rule and the Court's recent decisions in *American Petroleum Institute v. EPA*, 862 F.3d 50 (D.C. Cir. 2017) and *American Petroleum Institute v. EPA*, 883 F.3d 918 (D.C. Cir. 2018), which "changed the legal landscape" by reinstating

and broadening the part of the 2008 DSW Rule at issue in this case. *See Honeywell International v. EPA*, 705 F.3d 470, 473 (D.C. Cir. 2013) (holding that court decision constitutes after-arising grounds where it "changed the legal landscape"). *See also Alaska v. U.S. Dept. of Ag.*, 772 F.3d 899 (D.C. Cir. 2014) (holding that the court's reinstatement of a rule the agency previously repealed triggered a new right of action to challenge that rule).

STATEMENT OF ISSUES

EPA's Transfer-Based Exclusion is regulatory exclusion from RCRA's definition of solid waste. It excuses companies that manage hazardous wastes that are sent off-site for reclamation from RCRA's protective hazardous waste requirements provided certain minimal conditions are met.

1. Does EPA have authority to exclude hazardous wastes from RCRA's definition of solid waste when such wastes have been discarded by companies that have not only relinquished control of them, but have paid to get rid of them?
2. Is it unreasonable or arbitrary for EPA to assume that hazardous wastes are not "discarded" when generators pay to get rid of them?
3. Is EPA's failure to provide a reasoned explanation for its decision to treat hazardous wastes that are destined for reclamation under the Exclusion differently—and far less protectively—than hazardous wastes that are destined for treatment and disposal under Subtitle C arbitrary and capricious, particularly

where EPA admits that these materials pose the same human health and environmental risks?

STATUTES AND REGULATIONS

Pertinent statutes and regulations appear in an addendum to this brief.

STATEMENT OF FACTS

I. INTRODUCTION

This case challenges an unprecedented, sweeping regulatory exclusion from the statutory definition of solid waste, called the Transfer-Based Exclusion. Breaking from EPA's past practice, this Exclusion exempts a wide range of hazardous wastes that companies pay to get rid of from RCRA's protective hazardous waste management program so long as minimal conditions are met. Also, EPA itself has found that the Transfer-Based Exclusion fails to prevent dangerous releases of hazardous wastes, including the kinds of leaks, spills, fires, and explosions the agency knows occur when hazardous wastes are reclaimed.

II. HAZARDOUS WASTE AND THE RISKS IT PRESENTS TO HUMAN HEALTH AND THE ENVIRONMENT

From the earliest days of the RCRA program, EPA has recognized the "tragic consequences" that result from mismanagement of hazardous waste. EPA, Hazardous Waste Management System: Identification and Listing of Hazardous Waste, 45 Fed. Reg. 33,084, 33,084/3 (May 19, 1980), JA____. Even then, EPA cited "hundreds of cases of damage to human health or the environment resulting

from the indiscriminate dumping or other improper management of hazardous wastes." *Id.* at 33,084/3-33,085/1, JA____-__. They included pollution of groundwater with "toxic or cancer-causing chemicals and heavy metals"; pollution of surface waters that resulted in the "killing aquatic life, destroying wildlife, and denuding areas of vegetation"; "vaporization of volatile organic materials" that have been "linked to respiratory illnesses, skin diseases (including skin cancer) and elevated levels of toxic materials in the blood and tissues of human and domestic livestock"; and "fires, explosions or the generation of toxic gases which have killed or seriously injured workers and firemen." *Id.* at 33,085/1, JA____.

Over the years, these problems have persisted. In a 2007 study, EPA assessed more than 200 cases of environmental damage—all of them associated with hazardous waste recycling activities. EPA, *An Assessment of Environmental Problems Associated With Recycling of Hazardous Secondary Materials* (Jan. 11, 2007) (EPA-HQ-RCRA-2002-0031-0355), JA___. The study identifies major "leaks, spills, dumps or other types of releases of hazardous substances into the environment that were serious enough to require some type of cleanup action," including those that "required removal actions that were conducted by one or more government agencies, and involved expenditure of public funds." *Id.* at 5, JA____. It includes cases where the mismanagement of hazardous wastes intended for recycling resulted in releases of extremely toxic chemicals, like polychlorinated

biphenyls ("PCBs"), lead, arsenic, and cyanide, into air, soil, and water; fires and explosions; as well as serious bodily harm and even death. *See e.g.*, *id.* App. 2 at 115, 136, 207, 225, 243, JA____, ____, ____;,JA____.

Among the many disasters documented by EPA is a 2005 fire at the Advanced Magnesium Alloy Corporation's magnesium recycling facility in Indiana where 300,000 pounds of magnesium caught fire and burned for two days. *Id.* at 129, JA___. "The fire and smoke acted as a propellant for encapsulated asbestos insulation" in the facility, and more than 5,000 residents within one mile of the facility were evacuated. *Id.*, JA___. In a 2004 case, a four-alarm fire "fueled by the oil recycling activities" at the Thermo Fluids facility in Oregon "quickly engulfed the building despite the efforts of over 140 firefighters that responded to the fire." *Id.* at 266, JA___. The fire spread ash and soot into the air and downwind, and the water used in the attempts to contain the fire spread used oil and other potential hazardous chemicals into the nearby creek and river. *Id.*, JA___. In 2003, a fire at the CFF Recycling facility in Texas that emitted a "hazardous plume" could not be extinguished, so it was left to burn itself out. *Id.* at 311, JA___.

Improper storage and containment systems, and trucks leaking battery fluids at the Exide Technologies battery recycling plant in Georgia resulted "in significant soil and groundwater contamination by lead, chromium and battery

acid." *Id.* at 113, JA____. At another recycling facility, Missouri Electric Works, EPA found PCBs in the onsite and offsite air, groundwater, and soil—contamination so severe that the site was listed under the federal Superfund program with clean-up costs estimated at nearly $10 million. *Id.* at 171, JA____. In New Hampshire, a $48 million clean-up plan is in place to restore the Beede Waste Oil site where recycled waste oils have severely contaminated soil, sediment, surface water, and groundwater with PCBs and lead. *Id.* at 176-77, JA____-____.

In a prior case before this Court, EPA explained the risks presented by one of the many types of hazardous wastes that facilities generate and reclaim today, spent refinery catalysts. *See* Corrected Brief For Respondent at 35, *Am. Petroleum Inst. v. EPA*, No. 09-1038 (D.C. Cir. 2011), (Doc. #1320649), (citing 63 Fed. Reg. 42,110, 42,154/2 (Aug. 6, 1998)), JA____. Spent refinery catalysts are both toxic and "pyrophoric," meaning that they "can spontaneously combust simply by contact with air." *Id.*, JA____. EPA asserted it has "received reports of 'fires, building evacuations, and metals reclamation process disturbances attributed to the ignition of these spent catalysts." *Id.* at 10, JA____ (citing 60 Fed. Reg. 57,747, 57,767/1 (Nov. 20, 1995)). When assessing them, the agency has "observed smoke from catalyst storage areas at several reclaimers, and was told that fires occur 'every few months' despite careful monitoring and controls." *Id.* at 10-11, JA____-__ (quoting 63 Fed. Reg. at 42,154/3) (emphasis added). At times, it has even been

determined that "the risk associated with collecting catalyst samples from inert gas blanketed storage bins was too great to allow EPA to collect the samples directly." *Id.* at 10, JA____ (quoting 60 Fed. Reg. at 57,767/1). Indeed, "the danger posed by the spent catalysts was so great that one refinery asked EPA not collect a sample at all, due to the risks presented." *Id.*, JA____ (citing 60 Fed. Reg. at 57,767/1).

III. STATUTORY BACKGROUND

A. Cradle-To-Grave Regulatory System.

Realizing the grave risks associated with hazardous waste mismanagement, Congress enacted RCRA. Congress's "overriding concern" was "the effect on the population and the environment of the disposal of discarded hazardous wastes—those which by virtue of their composition or longevity are harmful, toxic or lethal." H.R. Rep. 94-1491, pt. I, at 3 (1976), *as reprinted in* 1976 U.S.C.C.A.N. 6238, 6241. *See Shell Oil Co. v. EPA*, 950 F.2d 741, 754 (D.C. Cir. 1991) ("'to insure the safe management of hazardous waste' was 'Congress' overriding concern in enacting RCRA.'") (quoting *Am. Min. Cong. v. EPA*, 824 F.2d 1177, 1179 (D.C. Cir. 1987) ("*AMC I*")). "Unless neutralized or otherwise properly managed in their disposal, hazardous wastes present a clear danger to the health and safety of the population and to the quality of the environment." H.R. Rep. 94-1491, pt. I, at 3, *as reprinted in* 1976 U.S.C.C.A.N. at 6241.

To prevent these harms, RCRA requires that all hazardous waste be subject to regulation as necessary to protect human health and the environment. Section 3002 of the statute requires RCRA regulation "applicable to generators of hazardous waste … as may be necessary to protect human health and the environment." 42 U.S.C. § 6922(a). Section 3003 requires such regulation for "transporters of hazardous waste," and § 3004 requires it for facilities that treat, store, or dispose of hazardous waste. *Id.* §§ 6923(a), 6924(a). Together, these provisions, referred to as the Subtitle C program, establish a "'cradle-to-grave' regulatory system," "for managing hazardous waste." *Shell Oil*, 950 F.2d at 754. "RCRA broadly defines 'hazardous waste management' as 'the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes.'" *Id.* (quoting 42 U.S.C. § 6903(7)).

B. Definition of Solid Waste.

This Court has "made clear that the linchpins of the Subtitle C system are the definitions of 'hazardous waste' and 'solid waste.'" *Shell Oil*, 950 F.2d at 754. "Only materials that meet both definitions will come within the 'cradle-to-grave' regulatory scheme." *Id.* (quoting *AMC I*, 824 F.2d at 1179). RCRA defines "hazardous waste" as "a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may – (A) cause, or significantly contribute to an increase in

mortality or an increase in serious irreversible, or incapacitating reversible, illness; or (B) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed." 42 U.S.C. § 6903(5). "Solid waste" is defined as "any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities." *Id.* § 6903(27). If a material is "discarded," *id.*, it is a solid waste and "[a]t that point, if it is hazardous, it falls within the jurisdiction of EPA, which is then responsible for its management until such time as it ceases to pose a hazard to the public." *Shell Oil*, 950 F.2d at 754.

On several occasions, this Court has addressed the meaning of "discarded" and the circumstances in which a material has been discarded. *See AMC I*; *Am. Petroleum Inst. v. EPA*, 906 F.2d 729, 740 (D.C. Cir. 1990) ("*API I*"); *Shell Oil*; *Ass'n of Battery Recyclers v. EPA*, 208 F.3d 1047, 1054 (D.C. Cir. 2000) ("*ABR*"); *Am. Min. Cong. v. EPA*, 907 F.2d 1179, 1186 (D.C. Cir. 1990) ("*AMC II*"); *Safe Food and Fertilizer v. EPA*, 350 F.3d 1263, 1268 (D.C. Cir. 2003); *API v. EPA*, 862 F.3d 50 (D.C. Cir. 2017).

AMC I, the first of these cases, holds that the term "discarded" has its "ordinary, plain-English meaning," *i.e.*, "'disposed of,' 'thrown away,' or 'abandoned.'" *AMC I*, 824 F.2d at 1184.[1] Applying this interpretation, the Court found that materials "recycled and reused in an *ongoing* manufacturing or industrial process" have not been discarded. *Id.* at 1186 (emphasis in original).[2]

In a series of cases, the Court then addressed the status of hazardous wastes that are transferred by the generator to a reclaimer.

API I rejected an EPA argument that, under *AMC I*, a hazardous waste which had been discarded was "no longer 'discarded'" when it arrived at a reclamation facility. 906 F.2d at 740. The Court explained that, because the waste in question "is indisputably 'discarded' *before* being subject to [] reclamation," "it *has* 'become part of the waste disposal problem.'" *Id.* at 741 (quoting *AMC I*, 824 F.2d at 1193) (emphasis in original). *AMC II* rejected a similar argument from industry petitioners, holding that "[n]othing in *AMC [I]* prevents the agency from treating

---

[1] *AMC I* also quotes "[t]he dictionary definition of 'discard' [which] is 'to drop, dismiss, let go, or get rid of as no longer useful, valuable or pleasurable.'" 824 F.2d at 1184 n.7 (quoting Webster's Third New International Dictionary (1981)).
[2] RCRA defines "hazardous waste management" to include "recovery," 42 U.S.C. § 6903(7). It then defines "resource recovery system" to include a system for the "recycling" of solid wastes. *Id.* § 6903(23). Although RCRA does not define "recycled," EPA's regulations define the term to mean "used, reused, or reclaimed." 40 C.F.R. § 261.1(c)(7). EPA uses the term "reclaimed" to mean a type of "recycling," *id.* § 261.2(c), (c)(3), in which a material is "processed to recover a usable product" or "regenerated," *id.* § 261.1(c)(4).

as 'discarded' the wastes at issue in this case, which are managed in land disposal units that *are* part of wastewater treatment systems, which *have* therefore become 'part of the waste disposal problem,' and which are *not* part of ongoing industrial processes." *AMC II*, 907 F.2d at 1186. *Shell Oil* confirmed that "*AMC I* does not affect in any way the EPA's ability to regulate hazardous materials after they have been discarded," and that "[i]f a hazardous material has been discarded, it becomes subject to Subtitle C regulation even if it is sent to a resource recovery facility." 950 F.2d at 756.

ABR rejected an argument that the cases subsequent to *AMC I* were inconsistent with *AMC I* or rendered the term "discarded" ambiguous. 208 F.3d at 1054-1056. The Court explained that "[t]he point of *AMC II*, and for that matter *API* [*I*], is that once a material qualifies as 'solid waste,' something derived from it retains that designation, even if it might be reclaimed and reused at some future time." *Id.* at 1056. Because *AMC I* recognizes this same point, the Court found that no conflict exists. *Id.* at 1054-55.

Finally, *Safe Food* holds that, although materials transferred to reclaimers "*may* be considered discarded," they are not "necessarily 'discarded.'" 350 F.3d at 1268. The Court accepted EPA's explanation that the specific materials at issue there—zinc fertilizers made from industrial by-products—were not discarded because: (1) "market participants treat the exempted materials more like valuable

products than like negatively-valued wastes" and (2) the resulting fertilizers were "chemically indistinguishable from analogous commercial products made from virgin materials." *Id.* at 1269.

IV. REGULATORY AND LITIGATION BACKGROUND

A. The Transfer-Based Exclusion.

In 2008, EPA promulgated the Transfer-Based Exclusion, a sweeping new exclusion from the definition of solid waste—and thus from RCRA regulation—for hazardous wastes that are transferred to third-party reclaimers. In a sharp break with its prior practice, EPA did not determine that any of the excluded wastes are actually not "discarded." EPA did not determine that all (or any) of the excluded wastes are treated "more like valuable products than like negatively-valued wastes," *Safe Food*, 350 F.3d at 1269. Nor did EPA determine that any of the materials reclaimed from the excluded wastes are "chemically indistinguishable from analogous commercial products made from virgin materials." *Id.* Instead, the sole criterion for the Transfer-Based Exclusion is that the generators and reclaimers of these wastes meet certain "conditions" set forth in the Transfer-Based Exclusion. 73 Fed. Reg. at 64,683/3, JA____.

EPA does not claim that the excluded hazardous wastes are any less dangerous than they were before they were excluded, or any less likely to spill, leak, catch fire, or explode. To the contrary, the agency admits that the excluded

wastes "have the potential to present the same types of threats to human health and the environment as hazardous wastes stored or transported prior to disposal." *Id.* at 64,671/1, JA____. Nonetheless, the conditions of the Transfer-Based Exclusion are substantially less protective than the requirements that would apply to the excluded wastes if they were sent to treatment or disposal facilities instead of reclaimers. EPA claims these minimal conditions "indicate" whether the excluded wastes have been discarded by reclaimers after generators have paid them to accept excluded hazardous wastes. 73 Fed. Reg. at 64,675/1, JA____.

For example, while Subtitle C requires generators to send their hazardous wastes to regulated facilities with RCRA permits to safely handle hazardous wastes, generators using the Exclusion for those same hazardous wastes need only "make reasonable efforts" to ensure that the reclamation facility receiving the excluded wastes "intends" to reclaim them. 40 C.F.R. § 261.4(a)(24)(v)(B). Similarly, whereas RCRA sets strict limits on how long and how much hazardous waste may be accumulated at a facility, and requires facilities to have hazardous waste storage permits, the Transfer-Based Exclusion allows facilities to accumulate as much waste as they want as long as they get rid of seventy-five percent of what they have accumulated over the year before the start of the next year. *Compare id.* §§ 262.16-.17 (RCRA requirements for generators that accumulate hazardous wastes); *id.* pt. 264 (RCRA standards for owners and

operators of facilities that store hazardous wastes); 42 U.S.C. § 6925 *with id.* § 261.4(a)(24)(i).[3] Moreover, whereas EPA's RCRA requirements include prescriptive design, operating, inspection, and air emissions standards for safe containment (*see, e.g., id.* pt. 264, subpart I, J, AA, BB, CC, and DD), the Transfer-Based Exclusion is available to facilities that meet only a loose requirement that the excluded wastes be "contained." *id.* § 261.4(a)(24)(i). EPA defines that term to mean, *inter alia*, "placed in or on the land," *id.* § 260.10, *i.e.*, not contained. In addition, while Subtitle C guarantees public notice and participation opportunities through the hazardous waste permitting process, the Exclusion does not. The Exclusion excuses facilities from critical RCRA requirements ensuring government and public oversight, including those for permitting.

B. Sierra Club's Challenge to the 2008 DSW Rule.

Sierra Club sought judicial review of the 2008 DSW Rule, including the Transfer-Based Exclusion in Sierra Club v. EPA, D.C. Cir. Case No. 09-1041, and petitioned EPA to repeal it administratively. The case was subsequently held in

[3] The Transfer-Based Exclusion allows facilities to accumulate hazardous wastes provided only that the accumulation is not "speculative." Under EPA's definition, this means that, during a calendar year, material "recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period." 40 C.F.R. § 261.1(c)(8).

abeyance pending EPA's consideration of Sierra Club's petition. *See* Case No. 09-1041, Unopposed Motion to Consolidate and to Hold in Abeyance (Feb. 20, 2009), JA____; Order, Doc. #01215541677 (Mar. 9, 2009), JA____.

In September 2010, Sierra Club and EPA entered a settlement agreement in Case No. 09-1041, pursuant to which EPA agreed to propose a new rule addressing all of the issues raised in Sierra Club's administrative petition, including those concerning the Transfer-Based Exclusion. Case No. 09-1041, Settlement Agreement, Doc. #1265157 (Sept. 10, 2010), JA____. In return, Sierra Club agreed to withdraw its administrative petition, and to dismiss its case with prejudice "[i]f EPA takes final agency action" that "revises the DSW Rule with respect to the issues raised in Sierra Club's administrative petition." *Id.*, JA____.

C. EPA's Voluntary Elimination of the Transfer-Based Exclusion.

EPA proposed revisions to the DSW Rule in July 2011. 76 Fed. Reg. 44,094, 44,109/3 (July 22, 2011), JA____. Describing significant flaws in the Transfer-Based Exclusion, EPA proposed to eliminate the Exclusion in its entirety, and replace it with hazardous waste regulation pursuant to RCRA Subtitle C. *Id.*, JA____.

EPA determined that the Transfer-Based Exclusion "may pose significant risk to human health and the environment from hazardous secondary material that may become discarded" and that, "in most cases, hazardous secondary materials

transferred to another party for reclamation are discarded and are best regulated under RCRA Subtitle C." *Id.* at 44,096/1-2, JA____.

Specifically, EPA explained:

> Because of the low commercial value and the high potential liability associated with most types of hazardous secondary materials (*i.e.*, spent materials and listed hazardous waste by-products and sludges), generators will typically pay the reclamation facility to accept these hazardous secondary materials or receive a salvage fee that only partially offsets the cost of transporting and managing them. In such situations, the generator has relinquished control of the hazardous secondary materials and the entity receiving such materials may not have the same incentive to manage them as a useful product.

Id. at 44,108/3, JA____. EPA further elaborated in its Regulatory Impact Assessment:

> Based on the evidence of EPA's 2007 industrial recycling historical damage case study and EPA's 2008 recycling market forces study, most transfers of hazardous secondary material for recycling do involve discard, and EPA's attempt to define such material as "not discarded" solely by setting additional management conditions poses the danger of circular reason. In other words, adding conditions, many of which resemble hazardous waste requirements, in order to attempt to prevent the discard of hazardous secondary materials that would otherwise be subject to full hazardous waste requirements, is potentially counter to the original intent of RCRA.

EPA, *Regulatory Impact Analysis: EPA's 2011 Proposed Revisions to the Industrial Recycling Exclusions of the RCRA Definition of Solid Waste* at 214 (June 30, 2011) (EPA-HQ-RCRA-2010-0742-0002) ("2011 RIA"), JA____.

In addition, EPA found that it "failed to take into account how the conditions of the 2008 transfer-based exclusion would work when actually implemented." 76 Fed. Reg. at 44,109/1, JA____; *see also* 80 Fed. Reg. 1694, 1707/3 (Jan. 13, 2015),

JA____. Instead, "EPA's analysis of the 2008 DSW final rule assumed that DSW conditions would operate with the same level of oversight as the Subtitle C hazardous waste regulations." 76 Fed. Reg. at 44,109/1, JA____; *see also* 80 Fed. Reg. at 1707/3, JA____.

EPA further explained that, whereas all of its prior conditional exclusions from the definition of solid waste "were developed based on EPA's knowledge of the specific hazardous secondary materials, the industries generating them, or the current recycling management practice for those hazardous secondary materials," 76 Fed. Reg. at 44,109/2, JA____, the Transfer-Based Exclusion "relied entirely on the conditions that were developed by EPA operating as the Agency anticipates they should," "without specific evidence that they would work as intended (*i.e.*, would not result in significant risk to human health and the environment from discarded materials)." *Id.*, JA____; 80 Fed. Reg. at 1708/1, JA____. Those conditions, EPA concluded, "lack several important implementation provisions" that Subtitle C hazardous waste regulations provide, and that this deficiency "could lead to the potential for an increased likelihood of environmental and public health hazards, including fires/explosions, soil and water contamination, air emissions, and abandoned hazardous secondary materials." 76 Fed. Reg. at 44,109/2-3, JA____; 80 Fed. Reg. at 1708/1-2, JA____. The "significant gaps in environmental protection" included the "incentives to accumulate larger volumes of hazardous

secondary materials, the reduction in oversight resulting from eliminating the permit requirement for storage, and the public's access to information and the opportunity for public participation." 76 Fed. Reg. at 44,104/2, JA____; 80 Fed. Reg. at 1740/1, JA____. Following an extensive environmental justice analysis, EPA found that those increased risks of human health and environmental harm disproportionately affect minority and low-income populations. 76 Fed. Reg. at 44,106/1-107/1, JA____-__.

EPA finalized the revised DSW Rule in 2015. 80 Fed. Reg. 1694 ("the 2015 DSW Rule"), JA____. The 2015 DSW Rule withdrew and eliminated the Transfer-Based Exclusion based on the findings discussed in the proposal. Because the Transfer-Based Exclusion no longer existed with the promulgation of the 2015 DSW Rule, Sierra Club dismissed its case challenging that Exclusion with prejudice, pursuant to the settlement agreement.

Instead of replacing the Transfer-Based Exclusion with RCRA Subtitle C regulation as proposed, however, the 2015 DSW Rule created a new exclusion called the Verified Recycler Exclusion. *Id.* at 1695/2, JA____. Like the Transfer-Based Exclusion, the Verified Recycler Exclusion excluded from RCRA regulation hazardous wastes that generators pay third party recyclers to take away. *Id.* at 1706-09, JA____-__. Sierra Club and other environmental groups therefore sought

judicial review of the 2015 DSW Rule. *Am. Petroleum Inst. v. EPA*, 862 F.3d 50 (D.C. Cir. 2017).

D. The Revival and Expansion of the Transfer-Based Exclusion.

In their challenge to the 2015 DSW Rule, environmental petitioners argued that: (1) EPA lacks authority to exclude hazardous wastes from RCRA requirements; (2) the hazardous wastes excluded by the Verified Recycler Exclusion are hazardous wastes because they are "discarded" under RCRA when the companies that generate and own them pay to get rid of them; and (3) the conditions imposed by the Verified Recycler Exclusion do not prevent this discard from occurring.

The Court expressly declined to consider the environmental petitioners' arguments. *API*, 862 F.3d at 72. Based on industry petitioners' challenges to the 2015 DSW Rule, the Court concluded that the Verified Recycler Exclusion was in some respects "unreasonable." *Id.* In particular, it found fault with the Verified Recycler Exclusion's new requirement that generators send their hazardous wastes only to those reclaimers with a RCRA hazardous waste management permit or a variance "to operate a third-party reclamation facility." *Id.* at 65, 68 (explaining that in promulgating the variance requirement "EPA fail[ed] to provide sufficient linkage between theory, reality, and the result reached"). "Having concluded that the Verified Recycler Exclusion is unreasonable," the Court decided that it "need

not address Environmental Petitioners' argument that the exclusion is too lenient." *Id.* at 72.[4]

With its unreasonableness finding, 862 F.3d at 72, the Court vacated the Verified Recycler Exclusion almost entirely, with the exception of its containment and emergency preparedness requirements. *Id.* at 74. The Court also reinstated the Transfer-Based Exclusion. *Id.* Because it considered only the reasonableness of EPA's rationale for promulgating the Verified Recycler Exclusion, the Court reinstated the Transfer-Based Exclusion without considering the agency's separate and independent rationale for the Transfer-Based Exclusion. In particular, the Court did not consider whether the Transfer-Based Exclusion allows the unlawful discard of hazardous waste or presents significant potential risks to human health and the environment.

On rehearing, API petitioned the Court to expand the Transfer-Based Exclusion so that it may be used for the unregulated management of self-combusting spent refinery catalysts. *See Am. Petroleum Inst. v. EPA*, 883 F.3d 918 (D.C. Cir. 2018). Despite EPA's refusal to exempt these exact hazardous wastes in the 2008 DSW Rule, 73 Fed. Reg. at 64,714, JA____, and the fact that EPA has

---

[4] Environmental Petitioners' primary challenge to the Verified Recycler Exclusion was not that it was "too lenient," *id.*, but that it exceeded EPA's authority and was therefore flatly unlawful. *Am. Petroleum Inst. v. EPA*, D.C. Cir. No. 09-1038, Envtl. Br. (Doc. #1620536) at 30-39 (June 20, 2016), JA____; Envtl. Reply (Doc. #1620537) at 2-12 (June 20, 2016), JA____.

never determined that they can be lawfully and safely excluded under the Transfer-Based Exclusion, EPA's lawyers did not object to API's request. *Id.*[5] The Court found that, had EPA addressed the issue in rulemaking, the agency would have excluded spent refinery catalysts given the two conditions of the Verified Recycler Exclusion (emergency preparedness and containment) the Court left in place. *Id.* at 921.The Court entered its mandate on March 14, 2018.

On May 30, 2018, EPA issued the 2018 DSW Rule with an immediate effective date and without providing an opportunity for public comment. Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule, Final Rule, 83 Fed. Reg. 24,664 (May 30, 2018) ("the 2018 DSW Rule"). The 2018 DSW Rule, *inter alia*, revises EPA's regulations to reinstate the Transfer-Based Exclusion and broadens it so that it may be used to exempt spent refinery catalysts from RCRA. *Id.*

---

[5] When it promulgated the Transfer-Based Exclusion, EPA concluded it could not be used to exempt regulation of spent refinery catalysts "on the basis of toxicity (i.e., these materials were shown to pose unacceptable risk to human health and the environment when mismanaged)" and because they can exhibit "pyrophoric or self-heating properties." 73 Fed. Reg. at 64,714/2. At that time, EPA stated that it would conduct a separate rulemaking to assess these wastes in the future. *Id.* Although EPA decided to exclude spent refinery catalysts under the more protective Verified Recycler Exclusion, the agency has never determined that it is safe to exclude them under the Transfer-Based Exclusion or provided any basis for doing so in the administrative record.

Petitioners filed this suit on June 12, 2018, seeking judicial review of the reinstated and broadened 2008 DSW Rule and the 2018 DSW Rule.

SUMMARY OF THE ARGUMENT

By EPA's own account, the Transfer-Based Exclusion excludes hazardous wastes that generators pay to get rid of. By using the transfer process to get rid of unwanted hazardous secondary materials, generators are discarding them. Such materials are hazardous waste within the ordinary meaning of the term, and EPA lacks authority to exclude them from RCRA requirements.

Even if the term "discarded" is ambiguous, or ambiguous with respect to some situations, excluding hazardous wastes that generators pay to get rid of is unreasonable. Whatever ambiguity might exist does not extend to materials that fall so easily into the ordinary meaning of discarded. And, in any event, EPA has never even claimed that the term is ambiguous with respect to such materials, let alone articulated a statutory interpretation that supports excluding them.

Nor has EPA provided any record basis to believe that hazardous wastes are not discarded when the companies that generate them pay to get rid of them. The only explanations EPA has provided for the Transfer-Based Exclusion go to different questions: whether already discarded hazardous wastes will be discarded again via spills, leaks, and other releases to the environment by reclaimers that have been paid to accept them. The possibility that EPA's conditions might make

such secondary discard less likely is irrelevant; because facilities pay to get rid of them, these materials are hazardous wastes and they do not cease to be hazardous waste just because they are sent to a reclamation facility.

Moreover, even if it could be overlooked that hazardous wastes are discarded when generators pay to get rid of them, EPA's assumption that the Transfer-Based Exclusion's conditions will prevent even the secondary discards EPA considered is arbitrary. EPA does not provide any reason to believe that the RCRA Subtitle C regulations that are necessary to protect human health and the environment against hazardous wastes are any less necessary for the excluded hazardous wastes. Indeed, as EPA itself has found, the excluded hazardous wastes are often similar if not identical to hazardous wastes that are not excluded. EPA's failure to explain treating these hazardous wastes differently based solely on whether they are sent to reclaimers (and thus excluded from RCRA) or sent to treatment and disposal facilities (and thus not excluded from RCRA) is especially arbitrary in light of the agency's own finding that the hazardous wastes are equally dangerous regardless of whether they are excluded and where they are sent. EPA itself has found that there is no basis for its assumption that the Exclusion will prevent harmful releases of hazardous wastes into the environment.

STANDARD OF REVIEW

When considering matters of statutory interpretation, "[i]f the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress." *Chevron U.S.A. Inc. v. Nat. Res. Def. Council*, 467 U.S. 837, 842-43 (1984). If the statute is ambiguous, under the second step of *Chevron* analysis, the Court considers whether the agency's interpretation is reasonable. *Id.* The "range of permissible interpretations of a statute is limited by the extent of its ambiguity," *Massachusetts v. Dep't of Transp.*, 93 F.3d 890, 893 (D.C. Cir. 1996), and EPA's interpretation of an ambiguous statutory provision will be rejected as unreasonable if it goes beyond that range. EPA's interpretation will also be rejected as unreasonable if the agency has not articulated it in the rulemaking, *Public Citizen v. HHS*, 332 F.3d 654, 661 (D.C. Cir. 2003), or if the agency "offered a reasoned explanation for why it chose that interpretation," *Vill. of Barrington, Ill. v. Surface Transp. Bd.*, 636 F.3d 650, 660 (D.C. Cir. 2011).

EPA's action is reviewed under the "arbitrary and capricious" standard. *Motor Vehicle Mfrs. Ass'n. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). This Court will deem EPA action arbitrary and capricious if the agency has failed to "examine the relevant data and articulate a satisfactory explanation for its action" including a "'rational connection between the facts found and the choice

made.'" *Id.* (quoting *Burlington Truck Lines v. United States,* 371 U.S. 156, 168 (1962)). "Normally, an agency rule would be arbitrary and capricious if the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Id.* Agency action is also arbitrary "when the agency offered insufficient reasons for treating similar situations differently." *Transactive Corp. v. United States*, 91 F.3d 232, 237 (D.C. Cir. 1996).

STANDING

Petitioners' members live, commute, work, and recreate near hazardous waste facilities that are eligible for the Transfer-Based Exclusion. *See* Declarations, DEC001-040. Several of these facilities used the Transfer-Based Exclusion before EPA eliminated it in 2015 and are therefore likely to do so again now that it has been reinstated. *See* Decls. of J. Kilgour, J. Rhodes, N. Feldman, C. Ford. Others generate or receive the dangerous spent refinery catalysts that are now eligible for the Transfer-Based Exclusion. *See* Decls. of E. Cheung, J. Parras, W. Fontenot, J. Marquez, J. Irwin, J. Williams; Addendum to Decls. at DEC041-100.

The Transfer-Based Exclusion deprives Petitioners' members of hazardous waste protections that would otherwise be required by RCRA to protect human

health and the environment, including prescriptive storage and accumulation limits, air emissions standards, and closure requirements. As described in their declarations, Petitioners' members are concerned that the loss of RCRA safeguards means they will experience the kind of health and environmental harms RCRA prevents. In particular, they worry about the increased risks of harm from catastrophic incidents, like fires, explosions, spills, and leaks, and releases of toxic pollution into the air, soil, and water in their communities. Several of Petitioners' members have already lived through major industrial fires, explosions, and leaks at facilities that are eligible for the Exclusion, and are worried that their use of the Exclusion will increase the likelihood that similar, or worse, incidents will happen again, and with more frequency. Decls. of J. Parras, W. Fontenot, and J. Marquez. Some members suffer from health problems they worry could be exacerbated by pollution resulting from use of the Exclusion. Decls. of E. Cheung, J. Parras, and J. Marquez. In addition, these concerns impair the ability of Petitioners' members to enjoy and feel safe in their everyday lives.

For example, Sierra Club member Janice Rhodes lives in Bristol, Pennsylvania, approximately 1.5 miles from the Dow Chemical (formerly Rohm & Haas) plastics plant that previously used the Transfer-Based Exclusion to manage hundreds of tons of hazardous wastes without complying with RCRA's hazardous waste requirements. Decl. of J. Rhodes. Ms. Rhodes is worried that Dow's use of

the Exclusion again will expose her to toxic chemicals, like xylene, toluene, and benzene, and increase her risk of being harmed during a fire or explosion, and from releases of toxic pollution into the air and water. *Id.* She is also concerned about the adverse impacts the Exclusion may have on her local park and lake, which she visits several times a week to walk her dogs, enjoy the outdoors, and observe different animal and plant species. *Id.*

Another Sierra Club member, Carl Ford, lives in West Deptford Township, New Jersey, approximately 2.5 miles from the Johnson Matthey facility that previously used the Transfer-Based Exclusion. Decl. of C. Ford. West Deptford has been called one of the most toxic towns in New Jersey and Mr. Ford is worried that Johnson Matthey will use the Transfer-Based Exclusion again to make matters worse. *Id.* Mr. Ford regularly smells strange chemical odors in the air outside his home that cause him to worry about what he and his wife are being exposed to, and diminish his ability to enjoy relaxing and gardening in his own home. *Id.* He worries that under the Transfer-Based Exclusion additional pollution will enter the air he breathes and pollute the Matua Creek and the Delaware River, both of which he enjoys visiting for recreational activities. *Id.*

William Fontenot, a LEAN and Sierra Club member, lives about 2 miles from the Exxon Mobil Baton Rouge Refinery, which generates the toxic and pyrophoric refinery spent catalysts that are now excluded under the Transfer-Based

Exclusion. Decl. of W. Fontenot. His home is also about 4 miles across the Mississippi River from a facility, Thermaldyne LLC, that has sought to reclaim refinery spent catalysts and other hazardous wastes without meeting RCRA's hazardous waste requirements. *Id.* Mr. Fontenot recalls explosions, spills, and pollution releases at facilities in Louisiana, including the major explosion at the Exxon Baton Rouge refinery on Christmas Eve in 1989. *Id.* Mr. Fontenot worries that use of the Exclusion at these facilities to manage dangerous spent refinery catalysts will increase the frequency and seriousness of these events. *Id.* He is also worried about his exposure to increased air and water pollution resulting from use of the Exclusion. *Id.*

Similarly, Juan Parras of t.e.j.a.s lives and works within just a few miles of the Houston Ship Channel, which hosts a large concentration of oil refineries. Decl. of J. Parras. Mr. Parras is extremely concerned that refineries and reclamation facilities will use the Transfer-Based Exclusion to mismanage their hazardous wastes, including refinery spent catalysts, to worsen the quality of the air he breathes, and increase the number of toxic fires, explosions, leaks, and spills that could harm him and other members of his community. *Id.* Having recently lived through Hurricane Harvey and the fires, explosions, and flooding that occurred in its aftermath, Mr. Parras is very worried that this Exclusion will lead to more disasters and contamination in the future. *Id.*

In addition, Petitioners and their members suffer informational injury because facilities that use the Exclusion are not required to obtain Subtitle C permits and comply with RCRA's reporting and inspection requirements for their management of hazardous wastes. *See* Decls. of J. Williams; W. Fontenot; E. Cheung. If excluded facilities were required to comply with RCRA's requirements, Petitioners and their members would get critical information about what, where, and how hazardous wastes are being managed. *Id*. Petitioners and their members would use this information to advocate for compliance with applicable requirements and ensure protection of human health and the environment. *Id*. By not requiring a permit and Subtitle C documentation, the Exclusion deprives Petitioners of information that is essential to their core missions to protect the public and environment from harmful pollution, and prevents them from educating their members and the public about hazardous waste management practices and the risks they pose. *Id*. It also impedes their ability to advocate for proper protections at hazardous waste sites and pursue enforcement actions where necessary. *Id*.

Relatedly, Petitioners and their members are injured procedurally by the Exclusion. But for the Exclusion, they could participate in RCRA permitting decisions to voice their concerns and advocate for strict hazardous waste management standards to protect human health and the environment. Decls. of W. Fontenot, E. Cheung, and J. Williams. By excusing hazardous waste facilities from

the permitting process, the Exclusion deprives Petitioners and their members of that opportunity.

ARGUMENT

I. THE TRANSFER-BASED EXCLUSION UNLAWFULLY EXCLUDES HAZARDOUS WASTE FROM RCRA REGULATION

A. The Transfer-Based Exclusion Contravenes RCRA.

Although RCRA provides no authority to exclude hazardous waste from the RCRA's cradle-to-grave management system, the Transfer-Based Exclusion does just that. It excludes all hazardous wastes that generators transfer to third-party reclaimers, so long as certain EPA-created conditions are met. 73 Fed. Reg. at 64,683/1-3, JA____. EPA does not claim those conditions satisfy RCRA's protectiveness requirements. Rather, it rests the Exclusion on a claim that "reclamation" conforming to them does not "involve discard" and, therefore, that the excluded materials are not solid waste. *Id.* at 64,683/3, JA____; 72 Fed. Reg. at 14,188/2, JA____. "Materials that are not solid wastes are not subject to regulation as hazardous waste under RCRA Subtitle C." 73 Fed. Reg. at 64,671/1, JA____.

Whether "reclamation" conforming to the Transfer-Based Exclusion's conditions involves discard is not the point. The Transfer-Based Exclusion excludes hazardous wastes that generators pay to get rid of. As EPA explains, generators "often ship these materials … to avoid the costs of disposing of the material[s]," and "typically pay the reclamation facility to accept [them.]" 80 Fed.

Reg. at 1707/2, JA____. *See also* 73 Fed. Reg. at 64,675/1, 64,677/3 JA____, ____. EPA concedes their objective "may be finding the least cost alternative for getting rid of the hazardous secondary material…." 72 Fed. Reg. at 14,201/1, JA____.[6]

When a company owns something that it cannot sell, use, or even give away, and is forced to pay to "get[] rid of" that item, *id.*, JA____, the company has "discarded" that item within the ordinary meaning of the term. Petitioners do not contend that either transfer or reclamation necessarily constitutes discard. *See API*, 862 F.3d at 64 (rejecting proposition that "reclamation-equals-discard"); *Safe Food*, 350 F.3d at 1268 ("we have never said that RCRA compels the conclusion that material destined for recycling in another industry is necessarily 'discarded.'"). But the transfer of hazardous materials undisputedly can constitute discard, *Safe Food*, 350 F.3d at 1268 (citing *API I*, 906 F.2d at 740-41; *AMC II*, 907 F.2d at 1186-87); *see* 73 Fed. Reg. at 64,671-72, JA____-___. And here, where the waste has negative value to the generator and transferring it to a reclaimer is a means of "getting rid of" it. 72 Fed. Reg. at 14,201/1, JA____, the

[6] The possibility that the Transfer-Based Exclusion may also exclude some materials that have not been discarded – *e.g.*, materials that generators can sell to reclaimers – does not make the exclusion any less unlawful. As this Court has held, a RCRA regulation that covered "at least some" materials that were not waste was a "contravention of Congress' intent." *ABR*, 208 F.3d at 1056 (quoting *AMC I*, 824 F.2d at 1193). By the same logic, a rule that excludes some materials that are waste from RCRA regulation also contravenes Congress' intent.

transfer does constitute discard. Because materials are "discarded" by the generator when the generator pays to get rid of them, they are hazardous waste before they reach a third-party reclamation facility and regardless of whether the subsequent reclamation process also involves discard. *See Shell Oil*, 950 F.2d at 756 ("If a hazardous material has been discarded, it becomes subject to Subtitle C regulation even if it is sent to a resource recovery facility.").

As EPA itself has pointed out repeatedly, "the DC Circuit has consistently cited a plain language definition of discard, as meaning 'disposing, abandoning or throwing away.'" 73 Fed. Reg. at 64,676/1, JA____; 72 Fed. Reg. at 14,178/2, JA____. *See AMC I*, 824 F.2d at 1184 (in RCRA, the term "discarded" unambiguously has its "ordinary, plain-English meaning" of "'disposed of,' 'thrown away,' or 'abandoned.'") (quoting Webster's Third New International Dictionary (1981)). Hazardous materials that generators pay to get rid of fall easily within the ordinary meaning of "'disposed of' 'thrown away' or abandoned'" —all terms that are themselves undefined in RCRA. *See Petit v. Dep't of Educ.*, 675 F.3d 769, 781 (D.C. Cir. 2012) ("In the absence of an express definition, [courts] must give a term its ordinary meaning."). "Even under the deferential *Chevron* standard of review, an agency cannot, absent strong structural or contextual evidence, exclude from coverage certain items that clearly fall within the plain

meaning of a statutory term." *U.S. Telecom Ass'n v. FCC*, 359 F.3d 554, 592 (D.C. Cir. 2004).

Finally, EPA itself has effectively acknowledged that materials are discarded when generators pay to get rid of them. "In the 2008 DSW rule, EPA determined that, absent specific conditions, it is reasonable to conclude that transfers of hazardous secondary materials to third-party recyclers generally involve discard except for instances where EPA has evaluated and promulgated a case-specific exclusion that a hazardous secondary material is not a solid waste." 80 Fed. Reg. at 1707/1-2, JA____. One of the main reasons EPA gave for this conclusion is that "[b]ecause of the low commercial value and the high potential liability associated with most types of hazardous secondary materials (*i.e.*, spent materials and listed hazardous waste by-products and sludges), generators will typically pay the reclamation facility to accept these hazardous secondary materials or receive a salvage fee that only partially offsets the cost of transporting and managing them." *Id.* at 1707/2, JA____. *See also* 72 Fed. Reg. at 14,201/1, JA____.

B. The Transfer-Based Exclusion is Unreasonable and Arbitrary.

Even if the term "discarded" is ambiguous, or ambiguous as applied to some situations, excluding hazardous wastes that generators pay to get rid of is unreasonable and arbitrary. EPA has never provided any statutory or record basis on which the Court could conclude these wastes are anything but "discarded"

when, by paying reclaimers to accept them, generators use the transfer process to get rid of them.

"Because the range of permissible interpretations of a statute is limited by the extent of its ambiguity, an agency cannot exploit some minor unclarity to put forth a reading that diverges from any realistic meaning of the statute lest the agency's action be held unreasonable." *Massachusetts*, 93 F.3d at 893. Whatever ambiguity might exist in the term "discarded" does not extend to materials that generators pay to get rid of which, as shown above, fall easily within the ordinary meaning of the term.[7] Further, EPA has not identified even a "minor unclarity" in the term "discarded" on which it could rely to exclude these materials; the agency does not claim "discarded" is ambiguous, either generally or with respect to hazardous materials that a generator has paid to get rid of. To the contrary, EPA agrees that the term "discarded" has its "plain language" meaning and describes this Court's holdings to that effect as "a workable and logical definition of the

[7] In evaluating whether "the economics of the recycling activity may be relevant to legitimate recycling determinations," 72 Fed. Reg. at 14,200/1, JA____, EPA states that "[w]hile the generator's objective may be finding the least cost alternative for getting rid of the hazardous secondary material, the recycling may well be a legitimate recycling operation," *id.* at 14,201/1, JA____. Because "legitimate recycling operation[s]" recycle hazardous wastes, the possibility that a recycling operation may be legitimate does not mean the materials it recycles are not hazardous waste.

term." 72 Fed. Reg. at 14,178/2, JA____; 73 Fed. Reg. at 64,671/3, JA____ (citing *AMC I*, 824 F.2d at 1188-90), 64,676/1, JA____.

Nor has EPA ever articulated an interpretation of "discarded" that excludes materials that generators pay to get rid of. Courts can defer to agency interpretations "only if the agency has offered a reasoned explanation for why it chose that interpretation." *Vill. of Barrington, Ill.*, 636 F.3d at 660. They cannot defer where, as here, the agency has not provided an interpretation that the Court can review. *See Public Citizen*, 332 F.3d at 661 ("even if we were prepared to accord *Chevron* deference …, that document contains no interpretation … to which we might defer"); *ITT Indus. v. NLRB*, 413 F.3d 64, 69 (D.C. Cir. 2005) (Court could not "assess the reasonableness of the Board's decision" because it "had failed 'even to acknowledge that the question … was an open one.'") (citation omitted).

EPA has also failed to provide any record basis for believing that hazardous wastes are not discarded when generators pay to get rid of them. EPA does not claim such wastes have a positive value to either the generators (who must pay to get rid of them) or the reclaimers (who must be paid to accept them). *See Safe Food*, 350 F.3d at 1269. Nor does EPA claim that the materials reclaimed from these wastes "are chemically indistinguishable from analogous commercial products." *Id.* As the agency has observed, the Transfer-Based Exclusion differs

from all other exclusions from the definition of solid waste in that EPA made no attempt to evaluate any specific wastes or practices and, therefore, has no basis to make any such claim about them. *See* 76 Fed. Reg. 44,109/1, JA____; 80 Fed. Reg. 1708/1, JA____.

The only reasons EPA does give for excluding hazardous wastes that generators pay to get rid of are either irrelevant, incoherent, or both.

EPA claims the conditions in the Transfer-Based Exclusion will "indicate" whether the excluded wastes have been discarded by reclaimers after generators have paid them to accept excluded hazardous wastes. 73 Fed. Reg. at 64,675/1, JA____. But those conditions do not even address the discard that happens when generators pay to get rid of their wastes. Nor could EPA possibly claim they do: the whole point of the Transfer-Based Exclusion is to deregulate hazardous wastes that are discarded in this fashion. Without explaining why it apparently believes that paying to get rid of a hazardous waste is not discarding it—or even acknowledging the issue— EPA acts unreasonably and arbitrarily by failing to consider an important part of the problem. *See State Farm*, 463 U.S. at 43 (action is arbitrary where agency "entirely failed to consider an important aspect of the problem"); *Rettig v. Pension Benefit Guar. Corp.*, 744 F.2d 133, 151 (D.C. Cir. 1984) (interpretation fails under *Chevron* step two where agency fails to "'consider[] the matter in a detailed and reasoned fashion.'") (citation omitted).

EPA also argues that "[g]enerators may be willing to pay recyclers because they can save money if the recycling is less expensive than disposing of the hazardous secondary materials in landfills or incinerators." 72 Fed. Reg. at 14,201/1, JA____. *See also id.* at 14,178/2, JA____ ("it often may be a sound business decision to ship the material to be recycled … in order to avoid the costs of disposing of the material"); 73 Fed. Reg. at 64,675/1, 64,677/3 JA____, ____ (same). Such argument is "divorced from the statutory text," *UARG v. EPA*, 134 S. Ct. 2427, 2441 (2014). Whether the generator pays a reclaimer or a disposal facility to get rid of its hazardous wastes, the generator is discarding those wastes. That paying a reclaimer might be cheaper does not make the transaction any less a discard. *See Shell Oil*, 950 F.2d at 756 ("[i]f a hazardous material has been discarded, it becomes subject to Subtitle C regulation even if it is sent to a reclamation facility."); *API I*, 906 F.2d at 741 (where a material is "'discarded' *before* being subject to … reclamation," it "*has* 'become part of the waste disposal problem'") (emphasis in original) (quoting *AMC I*, 824 F.2d at 1186).

EPA further argues that the Exclusion serves its objectives of "encourag[ing] the reclamation of hazardous secondary materials and reduc[ing] unnecessary compliance costs to industry, while still maintaining protection of human health and the environment." 73 Fed. Reg. at 64,684/1, JA____. However laudable the first two objectives might be, they have nothing to do with whether the excluded

wastes are discarded, and cannot possibly give EPA authority to override RCRA by excluding hazardous wastes from RCRA regulation. *See UARG*, 134 S. Ct. at 2441. *See also State of New York v. EPA*, 443 F.3d 880, 889 (D.C. Cir. 2006) ("[a]bsent a showing that the policy demanded by the text borders on the irrational, EPA may not avoid the Congressional intent clearly expressed in the text simply by asserting that its preferred approach would be better policy") (citation and internal quotation marks omitted). Moreover, as shown by the record, the Exclusion does not "maintain[] protection of human health and the environment." 73 Fed. Reg. at 64,684/1, JA____. Rather, it exempts facilities handling the excluded wastes from meeting RCRA requirements that are necessary to protect human health and the environment, and allows the facilities instead to meet lesser conditions. *See State Farm*, 463 U.S. at 43 (agency action is arbitrary where it fails to "articulate a satisfactory explanation for its action including a 'rational connection between the facts found and the choice made.'").

It bears emphasis that EPA's failure to consider that hazardous wastes are discarded when generators pay to get rid of them is not an abstract one; it is a serious failure that transforms vast quantities of "hazardous wastes" into "hazardous secondary materials" that are not subject to RCRA protections. That purely regulatory transformation does not make these materials any less dangerous to human health and the environment in a real sense. EPA itself has found that

"[h]azardous secondary materials stored or transported prior to recycling have the potential to present the same types of threats to human health and the environment as hazardous wastes stored or transported prior to disposal." 73 Fed. Reg. at 64,671/1, JA____.

II. EPA'S RELIANCE ON THE CONDITIONS OF THE TRANSFER-BASED EXCLUSION IS ARBITRARY AND CAPRICIOUS

Even if the discard that occurs when a generator pays to get rid of its hazardous wastes could be ignored, EPA's assumption that the Transfer-Based Exclusion's conditions will prevent a second discard of those hazardous wastes—when reclaimers that have been paid to take them discard them by allowing them to spill, leak, set fire, or otherwise escape into the environment—is arbitrary and capricious. 73 Fed. Reg. at 64,677-78, JA____-____.

A. EPA Fails to Provide a Reasoned Basis for Treating the Same Hazardous Wastes Differently.

In response to Congress's mandate to regulate hazardous wastes "as necessary to protect human health and the environment," EPA has established comprehensive Subtitle C regulations for hazardous waste management. *See generally* 40 C.F.R. pts. 262-265; *Shell Oil*, 950 F.2d at 762 (noting that hazardous waste facilities must comply with the RCRA requirements "EPA deems 'necessary to protect human health and the environment'"). But for the Transfer-Based

Exclusion, the wide range of hazardous wastes it covers would be regulated under Subtitle C.

Having established RCRA Subtitle C regulation necessary for the safe management of hazardous wastes sent to storage, treatment, and disposal facilities, including recycling and reclamation facilities, EPA needed to explain why it is now not necessary for safe management of the same hazardous wastes when they are sent to reclaimers under the Transfer-Based Exclusion. "A long line of precedent [] establishe[s] that an agency action is arbitrary when the agency offered insufficient reasons for treating similar situations differently." *Transactive Corp. v. United States*, 91 F.3d 232, 237 (D.C. Cir. 1996).

It is not good enough to simply claim that, because the excluded wastes are excluded, they are no longer solid waste and no longer subject to RCRA regulation. To be sure, EPA also asserts that the individual conditions of the Exclusion are "critical," "crucial," and "necessary" to determine when hazardous wastes sent to third-party reclaimers are not subsequently discarded by them through environmental releases. *See* 73 Fed. Reg. 64,678/2-3, JA____. But in order to rationally rely on the Transfer-Based Exclusion's conditions to prevent even secondary discard by reclaimers, EPA would need to explain why it believes compliance with the Exclusion's conditions will be sufficient to do so when those conditions are less than Subtitle C requirements. *State Farm*, 463 U.S. at 43

(agency must provide a "rational connection between the facts found and the choice made"). EPA provides no such reasoned explanation.

Moreover, there is ample reason to conclude that the Exclusion's conditions are not sufficient for this purpose. As described above, compared to Subtitle C, the Exclusion is plainly less protective, and lacking in several significant respects. For instance, the Exclusion does not require compliance with RCRA's prescriptive containment requirements, which set design, operating, inspection, and closure standards, including limits on air pollution releases. *See, e.g.*, 40 C.F.R. § 262.17; 40 C.F.R. pt. 264, subpart I, J, AA, BB, CC, DD. Instead, the Exclusion only requires that the excluded wastes meet EPA's definition of "contained," which sets no such specific limits and allows the excluded hazardous wastes to be placed "in or on the land before recycling." 40 C.F.R. § 260.10. Nor does the Exclusion include strict accumulation limits or require storage permits as RCRA does. *See* 40 C.F.R. §§ 262.16-.17 (RCRA requirements for generators that accumulate hazardous wastes); 42 U.S.C. § 6925; 40 C.F.R. pt. 264 (RCRA standards for owners and operators of facilities that store hazardous wastes). Under the Exclusion, facilities may accumulate as much hazardous wastes as they want as long as they get rid of seventy-five percent of whatever amount they accumulate over the year by the start of the following year. 40 C.F.R. § 261.1(c)(8); 40 C.F.R. § 261.4(a)(24)(i).

In addition, rather than requiring generators to send their hazardous wastes to facilities that are permitted to manage them safely, *see* 42 U.S.C. § 6922, the Exclusion merely calls on generators to make "reasonable efforts" to ensure that the reclaimer "intends to" reclaim the hazardous wastes. 40 C.F.R. § 261.4(a)(24)(v)(B). By its own terms, this condition is satisfied even if, despite the generator's "reasonable efforts," the reclaimer does not actually intend to properly reclaim the hazardous wastes, or if the reclaimer does not do what the generator thinks the reclaimer "intends" to do. *Id.*

The Exclusion also lacks key oversight requirements, like permitting, that RCRA requires to allow the public and the government to ensure applicable protective requirements are met. *See* 42 U.S.C. § 6925 Instead, the users of the Exclusion are left to self-regulate with the assumption that they will properly implement the Exclusion's conditions.

Although the Subtitle C requirements are necessary to prevent hazardous wastes from being released into the environment when they are sent to storage, treatment, and disposal facilities, EPA never explains why it believes the Exclusion's minimal conditions are sufficient to prevent releases when the same hazardous wastes are sent to reclamation facilities under the Exclusion. Instead, EPA offers only a conclusory statement that it believes its Exclusion "will be no less protective of public health and the environment tha[n] restrictive command

and control hazardous waste regulations." *See* EPA, Revisions to the Definition of Solid Waste Final Rule, Response to Comments Document at 95 (October 1, 2008), JA____. EPA's remarkable conclusion that the lesser protections provided by the Exclusion's conditions "will be no less protective" than Subtitle C's requirements defies logic and has no basis whatsoever. *State Farm*, 463 U.S. at 43.

The agency's failure to explain its different treatment of similar or identical materials is especially egregious given the agency's admission that they pose the same risks to human health and the environment. Making clear that it does not matter whether hazardous materials are excluded and called "hazardous secondary materials" or fully regulated and called "hazardous wastes," EPA states that "[h]azardous secondary materials stored or transported prior to recycling have the potential to present the same types of threats to human health and the environment as hazardous wastes stored or transported prior to disposal." 73 Fed. Reg. 64,671/1, JA____; *see also* 76 Fed. Reg. 44,104/1, JA____ ("because hazardous secondary materials sent to recycling are physically and chemically similar, if not identical to many of the hazardous wastes sent for treatment and disposal, the potential risks from their management are similar, if not the same, as from hazardous wastes sent for treatment and disposal.").

Indeed, EPA has created a new version of the same system it previously rejected as "paradoxical," where the same wastes are treated differently based

solely on where they are sent. *Shell Oil,* 950 F.2d at 755. As EPA itself pointed out to this Court in *Shell Oil*:

> [T]o assert that hazardous materials may be removed from [RCRA's] "cradle-to-grave" regulatory system whenever resources are recovered from hazardous wastes, would create a paradoxical system. Such wastes would be subject to manifesting requirements and transportation restrictions, and could be subject to permitting requirement if sent to a treatment, disposal, or storage facility, but would not be subject to any regulatory safeguards if sent to a resource recovery facility. Yet, resource recovery and recycling activities pose the same kinds of dangers that treatment and storage do.

Shell Oil, 950 F.2d at 755 (describing EPA's position).

B. EPA Itself has Found the Transfer-Based Exclusion's Conditions Inadequate.

EPA itself found that its claim that the Exclusion's conditions would prevent a secondary discard by reclaimers is a mere assumption that has no basis. When eliminating the Exclusion in 2015, EPA admitted that it had "failed to take into account how the conditions of [the Transfer-Based Exclusion] would work when actually implemented," and instead based the Exclusion on "the assumption that [the] conditions would be implemented to the same degree as Subtitle C hazardous waste regulations." *See* 80 Fed. Reg. 1707/3-1708/1, JA____ -__.

EPA also found that unlike all of its other recycling exclusions, which "were developed based on EPA's knowledge of the specific hazardous secondary materials, the industries generating them, or the current recycling management practice for those hazardous secondary materials," the Transfer-Based Exclusion

"relied entirely on the conditions that were developed by EPA operating as the Agency anticipates they should … without evidence that they would work as intended (*i.e.*, would not result in significant risk to human health and the environment from discarded materials)." *Id.*, JA____.

EPA further pointed out that its attempt to define discarded material "as 'not discarded' solely by setting additional management conditions poses the danger of circular reason. In other words, adding conditions, many of which resemble hazardous waste requirements, in order to attempt to prevent the discard of hazardous secondary materials that would otherwise be subject to full hazardous waste requirements, is potentially counter to the original intent of RCRA." 2011 RIA at 214, JA____.

Recognizing that the Exclusion lacked several key provisions that Subtitle C mandates for safe management of hazardous wastes, EPA concluded that those differences "could lead to the potential for an increased likelihood of environmental and public health hazards, including fires/explosions, soil and water contamination, air emissions, and abandoned hazardous secondary materials." 80 Fed. Reg. 1707/3-1708/1-2, JA____. In particular,

> these gaps include the absence of measures to ensure compliance, incentives to accumulate larger volumes of hazardous secondary materials, the potential for increased releases, such as during storage and transportation of the hazardous secondary materials, the lack of prescriptive standards for storage and containment, potential issues associated with the interstate

> transport of hazardous secondary materials for recycling, and reduction in access to information and the opportunity for public participation.

Id. at 1740/1-2, JA___. As EPA explained, "RCRA is a preventative statute and by design seeks to prevent damage before it occurs; relying solely on enforcement without addressing the root causes of the damage could needlessly increase the frequency, severity, and cost of damage cases." *Id.* at 1740/2, JA____. EPA has never disavowed these findings.[8] By jettisoning RCRA protections in favor of conditions that do not provide the level of protection that EPA deems necessary to serve RCRA's preventative purpose, EPA acts arbitrarily.

CONCLUSION AND RELIEF REQUESTED

For the reasons give above, Petitioners respectfully request that this Court vacate the Transfer-Based Exclusion codified at 40 C.F.R. § 261.4(a)(24)-(25).

DATED: August 20, 2018

Respectfully submitted,

/s/Khushi Desai

Khushi Desai
James S. Pew
Earthjustice
1625 Massachusetts Ave., NW
Suite 702
Washington, DC 20036-2243
(202) 667-4500

[8] Nor has the Court reviewed them. As explained above, the recent decisions addressed industry petitioners' challenges to certain conditions in the Verified Recycling Exclusion; they did not consider whether the Transfer-Based Exclusion itself is unlawful or arbitrary. *API*, 862 F.3d at 70.

kdesai@earthjustice.org
jpew@earthjustice.org

Counsel for Petitioners California Communities Against Toxics, Clean Air Council, Coalition for a Safe Environment, Community In-Power and Development Association, Louisiana Bucket Brigade, Louisiana Environmental Action Network, Sierra Club, and Texas Environmental Justice Advocacy Services

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT

Counsel hereby certifies, in accordance with Federal Rules of Appellate Procedure 32(a)(7)(B) that the foregoing **Proof Opening Brief of Petitioners**, contains 10,788 words, as counted by counsel's word processing system, and thus complies with the 13,000 word limit.

Further, this document complies with the typeface and type-style requirements of Federal Rule of Appellate Procedure 32(a)(5) & (a)(6) because this document has been prepared in a proportionally spaced typeface using **Microsoft Word 2016** using **size 14 Times New Roman** font.

DATED: August 20, 2018

/s/ *Khushi Desai*
Khushi Desai

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of August, 2018, I have served the foregoing **Proof Opening Brief of Petitioners**, including the Addendum thereto, on all registered counsel through the court's electronic filing system (ECF).

/s/ *Khushi Desai*
Khushi Desai

Message

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 8/21/2018 2:33:45 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]; Bolen, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31e872a691114372b5a6a88482a66e48-Bolen, Brit]; Konkus, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=555471b2baa6419e8e141696f4577062-Konkus, Joh]; Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]
CC: Leopold, Matt (OGC) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]; Schwab, Justin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=eed0f609c0944cc2bbdb05df3a10aadb-Schwab, Jus]
Subject: New decision: DC Cir. vacates part of 2015 CCR Rule
Attachments: ENV_DEFENSE-#850820-v1-USWAG_v__EPA_Opinion.PDF; ATT00001.htm

The DC circuit just issued a decision on the merits challenge by industry and environmental groups to the 2015 Coal Combustion Residuals rule. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

"On the claims raised by Environmental Petitioners, we hold that the EPA acted arbitrarily and capriciously and contrary to RCRA in failing to require the closure of unlined surface impoundments, in classifying so-called "clay-lined" impoundments as lined, and in exempting inactive surface impoundments at inactive power plants from regulation. We therefore vacate and remand the provisions of the Final Rule that permit unlined impoundments to continue receiving coal ash unless they leak, see id. § 257.101(a), classify "clay-lined" impoundments as lined, see 40 C.F.R. § 257.71(a)(1)(i), and exempt from regulation inactive impoundments at inactive facilities, see 40 C.F.R. § 257.50(e)."

We are reviewing the opinion closely and will follow up.

Best,

David

Sent from my iPhone

Begin forwarded message:

> **From:** "Celeste, Laurel" <celeste.laurel@epa.gov>
> **Date:** August 21, 2018 at 10:24:19 AM EDT
> **To:** "Fotouhi, David" <Fotouhi.David@epa.gov>, "Michaud, John" <Michaud.John@epa.gov>, "Lewis, Jen" <Lewis.Jen@epa.gov>
> **Subject: FW: 15-1219 Utility Solid Waste Activities, et al v. EPA "Judgment w/Opinion Filed (Complex Panel)" (EPA-80FR21302)**

I haven't read it yet

From: Rosen, Perry (ENRD) [mailto:Perry.Rosen@usdoj.gov]
Sent: Tuesday, August 21, 2018 10:17 AM
To: Celeste, Laurel <celeste.laurel@epa.gov>
Cc: O'Donnell, Jessica (ENRD) <Jessica.O'Donnell@usdoj.gov>
Subject: FW: 15-1219 Utility Solid Waste Activities, et al v. EPA "Judgment w/Opinion Filed (Complex Panel)" (EPA-80FR21302)

Laurel,

USWAG decision just came in. The opinion (over 70 pages), which I have not read yet, is attached. There is a quick summary below in the Judgment. Looks like a mixed bag, including denial of all Industry's petitions.

Perry

Perry M. Rosen
Senior Attorney
United States Dept. of Justice
Environment & Natural Resources Division
Environmental Defense Section
P.O. Box 7611
Washington, DC 20044
202-353-7792
perry.rosen@usdoj.gov

Address for Overnight Mail
601 D Street, NW
Suite 8000
Washington, D.C. 20004

From: ecfnoticing@cadc.uscourts.gov <ecfnoticing@cadc.uscourts.gov>
Sent: Tuesday, August 21, 2018 10:04 AM
To: Rosen, Perry (ENRD) <PRosen@ENRD.USDOJ.GOV>
Subject: 15-1219 Utility Solid Waste Activities, et al v. EPA "Judgment w/Opinion Filed (Complex Panel)" (EPA-80FR21302)

*****NOTE TO PUBLIC ACCESS USERS*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing.**

United States Court of Appeals for District of Columbia Circuit

Notice of Docket Activity

The following transaction was entered on 08/21/2018 at 10:02:32 AM EDT and filed on 08/21/2018

Case Name: Utility Solid Waste Activities, et al v. EPA
Case Number: 15-1219
Document(s): Document(s)

Docket Text:
PER CURIAM JUDGMENT [1746576] filed it is ORDERED that the motion to hold in abeyance be denied. It is FURTHER ORDERED that the motion for voluntary remand be granted with respect to the provisions in the Final Rule pertaining to (i) the definition of "Coal Residuals Pile," see 40 C.F.R. § 257.53; and (ii) the 12,400-ton beneficial use threshold, see id.; and (iii) the alternative groundwater protection standard, see id. § 257.95(h)(2), and these matters be remanded to EPA; and be denied with respect to the provisions in the Final Rule pertaining to inactive surface impoundments and landfills at active power plants, see id. §§ 257.50 (c), 257.100, and inactive surface impoundments at inactive power plants, see id. § 257.50(e). It is FURTHER ORDERED and ADJUDGED that Environmental Petitioners' petition for review be granted in part, be denied in part, and the Final Rule be vacated and remanded with respect to the provisions that permit unlined impoundments to continue receiving coal ash unless they leak, see id. § 257.101(a), classify "clay-lined" impoundments as lined, see 40 C.F.R. § 257.71(a)(1)(i), and exempt from regulation inactive impoundments at inactive facilities, see 40 C.F.R. § 257.50(e); the Industry Petitioners' petitions for review be denied and the two accompanying notice challenges and the issue of risk-based compliance alternatives be dismissed as moot, for the reasons in the accompanying opinion . Before Judges: Henderson, Millett, and Pillard. [15-1219, 15-1221, 15-1222, 15-1223, 15-1227, 15-1228, 15-1229]

Notice will be electronically mailed to:

Mr. Stephen John Bonebrake: sbonebrake@schiffhardin.com
Samuel B. Boxerman: sboxerman@sidley.com, dcefilingnotice@sidley.com, samuel-boxerman-5506@ecf.pacerpro.com
Jennifer Cassel: jcassel@earthjustice.org, fchampenois@earthjustice.org, gwinick@earthjustice.org
Mr. Thomas Joseph Cmar: tcmar@earthjustice.org, fchampenois@earthjustice.org, gwinick@earthjustice.org
Mr. John F. Cooney, Attorney: jfcooney@venable.com
Lisa Evans: levans@earthjustice.org, fchampenois@earthjustice.org, gwinick@earthjustice.org
Ms. Margaret Kuhn Fawal, Attorney: mkkuhn@venable.com
Matthew Gerhart: megerhart@gmail.com, fchampenois@earthjustice.org
Mr. Douglas Haber Green: dhgreen@venable.com
Thomas James Grever, Attorney: tgrever@shb.com, kjclark@shb.com, njsmith@shb.com, mbuchanan@shb.com
Makram B. Jaber: mjaber@huntonak.com, sfisher@huntonak.com, caapleadings@huntonak.com, jacksonp@huntonak.com
Mr. Joshua Robert More, Attorney: jmore@schiffhardin.com
Mr. Raghav Murali: rmurali@schiffhardin.com
Eric Murdock: emurdock@huntonak.com, sfisher@huntonak.com
Mr. Brian H. Potts, Attorney: bpotts@foley.com, ballen@foley.com
Perry M. Rosen: perry.rosen@usdoj.gov
Jonathan Skinner-Thompson: skinner-thompson.jonathan@epa.gov
Mr. Aaron Joseph Wallisch: ajwallisch@venable.com
Mr. Paul J. Zidlicky: pzidlicky@sidley.com, dcefilingnotice@sidley.com, paul-zidlicky-

3179@ecf.pacerpro.com

Document to be served by alternative means on:

Ms. Laurel M. Celeste
U.S. Environmental Protection Agency
(EPA) Office of General Counsel
1200 Pennsylvania Avenue, NW
Ariel Rios Building
Washington, DC 20460-0000

Mr. John Charles Cruden
Beveridge & Diamond, PC
1350 I Street, NW
Suite 700
Washington, DC 20005-3311

The following document(s) are associated with this transaction:
Document Description: Document Sent
Original Filename: /opt/ACECF/live/forms/15-1219CHMJ.pdf
Electronic Document Stamp:
[STAMP acecfStamp_ID=1109186823 [Date=08/21/2018] [FileNumber=1746576-0] [8b36f433e28f3e209cdd8377da8fe1e164f85ea4bbf71cf9c1184ab5a63f4d9b0e25825e04e9db1ee a1afb6f73c80765a4a308122a99472ee42b121f65f44239]]
Recipients:

- Mr. Stephen John Bonebrake
- Samuel B. Boxerman
- Jennifer Cassel
- Ms. Laurel M. Celeste
- Mr. Thomas Joseph Cmar
- Mr. John F. Cooney, Attorney
- Mr. John Charles Cruden
- Lisa Evans
- Ms. Margaret Kuhn Fawal, Attorney
- Matthew Gerhart
- Mr. Douglas Haber Green
- Thomas James Grever, Attorney
- Makram B. Jaber
- Mr. Joshua Robert More, Attorney
- Mr. Raghav Murali
- Eric Murdock
- Mr. Brian H. Potts, Attorney
- Perry M. Rosen
- Jonathan Skinner-Thompson
- Mr. Aaron Joseph Wallisch
- Mr. Paul J. Zidlicky

Message

From: regionalpress [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B2F78D3F76B64908B6BDBADCEC015396-REGIONALPRE]
Sent: 7/19/2018 11:49:15 AM
To: Colip, Matthew [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cb142ab3fb174f0ea41a87668c7fb641-Mcolip]; Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]; Chancellor, Erin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ae6aeabeca754643bdb01c9f5b653ca6-Chancellor,]; Fonseca, Silvina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d77d07be7386476380b9193170946863-Fonseca, Silvina]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Darwin, Veronica [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc98aaf2f15a466baede3dab0e27a35e-Darwin, Ver]; Falvo, Nicholas [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=424ac90ea7d8494a93209d14d37f2946-Falvo, Nich]
Subject: FW: FOR AWARENESS: press clip from NJ Superfund Site Reuse Event

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Kluesner, Dave
Sent: Wednesday, July 18, 2018 9:16 PM
To: regionalpress <regionalpress@epa.gov>
Cc: Mears, Mary <Mears.Mary@epa.gov>
Subject: FOR AWARENESS: press clip from NJ Superfund Site Reuse Event

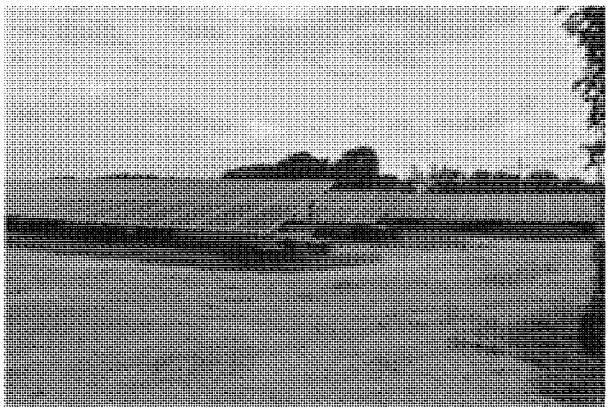
NJ SPOTLIGHT

It Was Once a Superfund Site, Now It's a Solar Farm

Transformation of former landfill in South Brunswick emblematic of governor's plan to greatly increase renewable energy in NJ. But, can more developers be enticed to invest in solar?

By Tom Johnson

July 18, 2018


Sixty-acre former Superfund site in South Brunswick is home to a new solar farm.

When Gov. Phil Murphy signed an ambitious law to ramp up the state's reliance on renewable energy this spring, he chose to do so at a former Superfund site that is being converted to a solar farm.

The 68-acre former South Brunswick Landfill project is now completed, the 34th commercial solar facility undertaken by NJR Clean Energy Ventures (CEV), an unregulated affiliate of New Jersey Resources.

For CEV, the project is getting to be old hat, with the company investing nearly $600 million in solar projects throughout New Jersey. It owns and operates 194 megawatts of capacity throughout the state, involving mostly commercial projects — although it has 61.5 MW in projects that cover 6,800 residential customers.

This administration has set lofty clean energy goals, aiming to having 100 percent of electricity produced by renewable energy by 2050, a target that will rely heavily on solar to achieve that level. And it will have to do so while figuring out a new way of incenting developers to invest in solar.

Current system to be scrapped

Because of worries about mounting costs to consumers, the legislation signed by Murphy will end up scrapping the current system of financing solar projects, which awards solar renewable energy credits to owners of the arrays for the electricity they produce.

The current financing system has been successful on one level — it has led to more than 90,000 solar installations statewide — but the expense has fallen on ratepayers to a large degree, costing more than $500 million a year.

Within three years, the New Jersey Board of Public Utilities must come up with a new, and presumably less costly, program to incent continued growth in the solar sector, which employs more than 7,000 people in the state. The agency is in the process of seeking input on how the new program should function.

"New Jersey has a thriving solar program and we fully expect that to continue,'' BPU president Joseph Fiordaliso said recently. CEV executives are equally optimistic.

"We don't know where it is going to shake out,'' said Mark Valori, vice president of CEV, referring to the overhaul of the solar program, "but we want to be a player in the state.''

Murphy's aggressive goals

To date, the company has invested more than $800 million in renewable energy, including four wind projects in Kansas, Iowa and Pennsylvania totaling 116.9 mw.

Solar and offshore wind are projected to be the primary technologies that will help the state achieve the Murphy administration's aggressive clean energy goals.

Larry Barth, director of corporate strategy for NJR, has few qualms about the solar sector. "It's going to be a good opportunity given the Murphy administration's commitment to clean energy. He wants to make New Jersey a national solar leader once again,'' he said.

The state already is moving to promote solar through a number of initiatives, Barth said, including establishing a new community solar program that could help bring the technology to low-income communities, a priority of the governor.

Barth is optimistic about the process. "It's got to work for the customer, the ratepayer and the business that wants to invest,'' he said, referring to the transition to the new solar financing program.

Brownfields and abandoned landfills

In South Brunswick, the 13-megawatt solar project will end up providing enough energy to power 1,360 homes. It is the third brownfield project that CEV has built. The state has put a priority on building solar farms on brownfields and abandoned landfills, instead of using existing farmland or open spaces.

The facility is built on about 60 acres of the former Superfund site, which had been capped and taken off the National Priority List in 1998. It had operated as a garbage dump for 20 years until it was closed in 1978.

"By all outward purposes, the landfill is a liability until it was turned into an asset,'' said South Brunswick Mayor Charlie Carley, referring to the conversion into a solar facility.

"This is one of the best things you can do with a closed landfill,'' said Walter Mugdan, a deputy regional administrator for the U.S. Environmental Protection Agency's Region II office in New York.

David Kluesner,
Deputy Director of Public Affairs
U.S. EPA, Region 2 (New York, New Jersey, Puerto Rico, the U.S. Virgin Islands and Eight Indian Nations)

Sent from my iPhone

Message

From: Block, Molly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=60D0C681A16441A0B4FA16AA2DD4B9C5-BLOCK, MOLL]
Sent: 7/18/2018 10:28:23 PM
To: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
CC: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Chancellor, Erin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ae6aeabeca754643bdb01c9f5b653ca6-Chancellor,]; Falvo, Nicholas [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=424ac90ea7d8494a93209d14d37f2946-Falvo, Nich]; Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=febaf0d56aab43f8a9174b18218c1182-Fotouhi, Da]
Subject: Re: FOR APPROVAL: RE: R5 draft press release to announce $26.6 million RCRA cleanup at DuPont in E. Chicago -TBA 8AM, Fri., 7/20

Thanks all!

Sent from my iPhone

On Jul 18, 2018, at 6:27 PM, Cook, Steven <cook.steven@epa.gov> wrote:

> No comments
>
> ---
>
> **From:** Block, Molly
> **Sent:** Wednesday, July 18, 2018 5:08 PM
> **To:** Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Chancellor, Erin <chancellor.erin@epa.gov>; Falvo, Nicholas <falvo.nicholas@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
> **Subject:** FOR APPROVAL: RE: R5 draft press release to announce $26.6 million RCRA cleanup at DuPont in E. Chicago -TBA 8AM, Fri., 7/20
>
> Please review the press release attached from Region 5 on the cleanup for the DuPont/Chemours RCRA site in East Chicago. Please let me know if you have any questions or edits. Thank you!

Deliberative Process / Ex. 5

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/16/2018 2:06:03 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Colip, Matthew [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cb142ab3fb174f0ea41a87668c7fb641-Mcolip]; Taylor, Trish [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2bf5f5220f7144d380741509abaeecd7-Ptaylo03]
Subject: FYI: EPA Prepares for 2018 Hurricane Season, Building on Lessons Learned from Emergency Responses in 2017

FYI – In case you haven't seen this. OPA put this together and ran it by OEM before finalizing it.

From: Lynn, Tricia
Sent: Friday, July 13, 2018 11:06 AM
To: Press <Press@epa.gov>; Comm Directors and Alternates <Comm_Directors_and_Alternates@epa.gov>; Regional Public Affairs Directors <Regional_Public_Affairs_Directors@epa.gov>; AO-OCIR Everyone <AOOCIR_Everyone@epa.gov>; AO OPA Internal Communications <AO_OPA_Internal_Communications@epa.gov>
Subject: FW: EPA Prepares for 2018 Hurricane Season, Building on Lessons Learned from Emergency Responses in 2017

In the newsroom: https://www.epa.gov/newsreleases/epa-prepares-2018-hurricane-season-building-lessons-learned-sustained-emergency

---

From: EPA Press Office [mailto:noreply-subscriptions@epa.gov]
Sent: Friday, July 13, 2018 11:01 AM
To: Lynn, Tricia <lynn.tricia@epa.gov>
Subject: EPA Prepares for 2018 Hurricane Season, Building on Lessons Learned from Emergency Responses in 2017

U.S. ENVIRONMENTAL PROTECTION AGENCY

NEWS RELEASE

WWW.EPA.GOV/NEWSROOM

CONTACT: press@epa.gov

EPA Prepares for 2018 Hurricane Season, Building on Lessons Learned from Sustained Emergency Responses in 2017

WASHINGTON (July 13, 2018) — The U.S. Environmental Protection Agency (EPA) has joined partners across federal, tribal, state, and local governments in preparation for the 2018 Atlantic hurricane season. On June 5, EPA senior leaders gathered in New Orleans, Louisiana, to discuss the Agency's preparations for the 2018 hurricane season.

"EPA stands ready with our partners on every level to respond to the 2018 hurricane season," said EPA Acting Administrator Andrew Wheeler. **"Given the expert preparedness and rapid response efforts of our teams during last year's hurricanes, we are confident that we will respond swiftly to provide the necessary support and minimize impacts to public health and the environment."**

Just last week, Hurricane Beryl became the first major named storm in the Atlantic of the 2018 hurricane season. EPA REOC personnel closely monitored Hurricane Beryl in anticipation of potential landfall in Puerto Rico and the USVI. EPA and the Federal Emergency Management Agency (FEMA) worked closely with the government of Puerto Rico, the U.S. Virgin Islands (USVI), and municipalities over the past few months to address lessons learned from María and ensure the islands are better prepared for hurricane season at all levels.

Currently, EPA has approximately 60 personnel on the ground in Puerto Rico and USVI and in the Regional Emergency Operations Center in Edison, NJ dedicated to response, recovery, and readiness. Generators used to supply power to some public water supply systems in Puerto Rico are being maintained and re-fueled by EPA and remain on the island in case they are needed for future responses.

As last year's dynamic responses to Hurricanes Harvey, Maria, and Irma showed, EPA is prepared to respond to critical environmental and public health threats. The Agency's emergency response program mitigates the environmental and health effects of man-made and natural disasters. The Atlantic hurricane season officially runs from June 1 until November 30.

What We Do

EPA supports hurricane preparedness and response in many ways, including:

- Mobilizing Emergency Responders: EPA has approximately 230 emergency responders ready to deploy anywhere in the country to respond to emergencies. More than 1,500 EPA employees and contractors were deployed to impacted regions and EPA's Emergency Operations Centers to provide technical and response support during the 2017 hurricane response.
- Addressing Fuel Shortages: The Clean Air Act allows EPA, in consultation with the U.S. Department of Energy Secretary, to waive certain fuel requirements to address shortages that occur because of the storm. Temporary waivers can help ensure an adequate supply of gasoline is available in the affected area, particularly for emergency vehicles. During Hurricanes Harvey, Irma, and Maria, EPA issued 14 separate fuel waivers.

- Activating Mobile Assets: EPA has several assets to help gather data to assist emergency personnel with response activities. These include:
    - ASPECT - the nation's only airborne real-time chemical and radiological detection, infrared, and photographic imagery platform. EPA used the ASPECT aircraft to provide real-time chemical information to first responders after the Arkema Chemical Plant explosion during Hurricane Harvey
    - PHILIS - a mobile laboratory for on-site analysis of air, soil, and water samples
    - TAGA - a mobile laboratory capable of real-time ambient air monitoring, sampling, and analysis of outdoor air emissions
- Securing Superfund Sites: EPA assesses conditions at Superfund sites in the storm's pathway and tasks site managers with assessing conditions and preparing for high winds and heavy rainfall. Following the storm and receding floodwaters, EPA conducts assessments to identify damage and initiate cleanup plans, if necessary. Any on-site activities at sites located in the storm's path are ceased until the all clear is given and on-site equipment is secured. During Hurricanes Harvey, Irma, and Maria, EPA completed approximately 250 assessments of Superfund sites.
- Assessing Conditions at Major Industrial Facilities: EPA assesses conditions at major industrial facilities in the storm's pathway to identify potential impacts and countermeasures. The Agency conducts follow up inspections and damage assessments in response to reports within EPA jurisdiction. During the response to Hurricanes Harvey, Irma, and Maria, this included approximately:
    - 1,130 Risk Management Plan field assessments
    - 345 Facility Response Plan field assessments
    - 7,100 disaster debris management sites
    - 320 spills/discharges
    - 4,025 vessels assessed (vessels include tanks or containers at onshore oil and natural gas production facilities)
- Monitoring Public Water Systems: Water systems can be severely impacted during hurricanes due to storm surge, flooding, or loss of power from extreme winds. EPA uses its tracking system to identify systems in the storm's pathway. Following the storm, and if the state requests federal assistance, EPA conducts damage assessments of both drinking water and wastewater systems to identify impacts to critical assets and assist in the recovery. In response to Hurricanes Harvey, Irma, and Maria, EPA and partners assessed approximately:
    - 6,200 drinking water systems
    - 1,220 wastewater systems
- Managing Debris and Impacted Infrastructure: Additionally, EPA assesses contaminated debris, storm-impacted infrastructure, and threats to human health and the environment. The Agency is prepared to assess and clean up public and private properties, render properties safe from hazardous materials, and facilitate removing solid waste, ash, and debris.

Overall, EPA works with partners across federal, tribal, state, and local governments to respond to oil spills; chemical, biological, radiological releases; and large-scale national emergencies.

For additional information on EPA's emergency response capabilities, please visit: https://www.epa.gov/emergency-response

Visit the EPA's Newsroom

If you would rather not receive future communications from Environmental Protection Agency, let us know by clicking here.
Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460 United States

Message

From: Brooks, Becky [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6F369A2EF33E4A87AF349210A3915A57-BBROOKS]
Sent: 8/7/2018 5:16:19 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: From today's BUILD Act Meeting
Attachments: Cleanup Grant Policy Recommendation.docx; Multipurpose Grants Recommendation.docx; Small Community Assis Grants Recommendation.docx; FY19 Brownfields Grant Schedule.docx

Attached are the documents from the BUILD Act meeting w/OBLR today.

Becky Brooks
Special Assistant
Office of Land and Emergency Management
U.S. Environmental Protection Agency
ph. 202-566-2762

BUILD Act Implementation
Cleanup Grant Policy

I. Statutory Framework for Brownfields Cleanup Grant Policy

CERCLA § 104(k)(3)(A)(ii) is amended to increase the cleanup grant funding amount to $500,000 per site; eligible entities can also request a waiver to $650,000 per site, based on the anticipated level of contamination, size, or ownership status of the site.

II. Recommendation

Deliberative Process / Ex. 5

BUILD Act Implementation
Multipurpose Grant Policy

I. Statutory Framework for Multipurpose Grants

The BUILD Act established a new Multipurpose (MP) Brownfield Grant program (CERCLA § 104(k)(4)). Under this new authority, EPA may provide a maximum of $1 million in funding per grant to an eligible entity to inventory, characterize, assess, plan for or remediate one or more brownfield sites within a target area. The statute requires that a MP recipient own the brownfields property prior to expending grant resources to remediate the property. The grant period of performance is five years. The statute limits EPA to awarding a maximum of 15% in 104(k) funds for MP grants each year.

As established by CERCLA § 104(k)(4), when evaluating proposals, EPA shall consider the extent to which the eligible entity is able to:

- Provide an overall plan for revitalization of the one or more brownfield site(s) in the proposed area;
- Demonstrate capacity to conduct the range of eligible activities funded by the MP grant; and
- Demonstrate that a MP grant will meet the needs of the one or more brownfield site(s) in the proposed area.

II. Recommendation

Deliberative Process / Ex. 5

BUILD Act Implementation Recommendation
Small Community Assistance Grant Policy

I. Statutory Framework for Small Community Assistance Grants

CERCLA § 128(a)(B)(III) was added to create a new grant program for states and tribes to provide technical assistance to small communities or disadvantaged communities as defined in the BUILD Act.

- Grants maximum per community – $20,000.
- Entities eligible for the grant – States and Tribes with a 128(a) grant.
- Type of Funding and Mechanics to Award – 104(k) funding but will be awarded as part of a 128(a) grant in an allocation process.
- Disadvantaged Areas definition – means a community with an annual median household income that is less than 80% of the statewide annual median household income, as determined by the President based on the latest available decennial census.
- Small Community definition – means a community with a population of not more than 15,000 individuals, as determined by the President based on the latest available decennial census.

II. Recommendation

Deliberative Process / Ex. 5

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/24/2018 9:35:25 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]
Subject: FOR YOUR REVIEW: Initial Fact Sheets for Wheeler's briefing
Attachments: OEM-CERCLA-EPCRA Reporting.docx; OBLR.Brownfields.docx; ORCR.CCR.docx; OEM.Chem Facility RMP.v2.docx; OSRTI.LeadExposureSFSites.docx

Importance: High

Hi Barry, Steven, and Peter,

This is the first of several emails I'll be sending you with materials for Acting Administrator Wheeler's SEPW hearing. I apologize for sending the materials piecemeal, but some of them are taking longer to finalize than others and I wanted to give you an opportunity to start reviewing the fact sheets. Please let me know if you have any questions or concerns. Thanks.

Attached for your review are draft fact sheets on the topics that will be covered at the pre-brief tomorrow at 11:00 and OLEM's Wheeler briefing later this week. They have been approved by the ODs, and slightly edited/shortened by both Carolyn Levine and me. They include:

- Coal Ash – Steven (Barnes as backup)
- Brownfields -- Peter
- Risk Management Plan – Peter
- NEW Suggestion from OCIR: CERCLA/EPCRA Reporting & Recent Vacatur Rule
- Lead Exposure at Superfund Sites – Jim Woolford

The second and third emails I'll be sending you later tonight or tomorrow morning will include:

1. Program offices' suggested Q&As for you to ask Wheeler in the second part of the OLEM briefing.
2. Fact sheets on the Superfund Program Sites below.
    - Ex. 5 Deliberative Process (DP)

NOTE: Peter will not participate in these site discussions:

- Ex. 5 Deliberative Process (DP)

- Ex. 5 Deliberative Process (DP)

3. Second tier fact sheets. They will include the following topics:
   - SPCC
   - Hurricane preparedness
   - Spill Prevention Rule
   - 108(b)
   - PFAS at Fed Facility Sites
   - Hot Topics/Issues at Fed Facility Sites
   - Compliance deadline
   - Abandoned Minds and Mineral Processing Sites
   - Addressing Extreme Weather at Superfund Sites
   - Superfund Remedial Cleanup Program
   - Superfund Special Accounts
   - Superfund Task Force
   - Role of States in SF Program
   - Hazard Ranking System Revision

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

Message

From: Hilosky, Nick [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=39E1182AC8CD4709AE0787CA4A068D2D-NHILOSKY]
Sent: 7/24/2018 9:32:26 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]
Subject: FW: Draft FUDs Scenarios
Attachments: FUDs Scenarios V2.docx

See below from OBLR…
Nick

Nicholas J. Hilosky
Special Assistant
Office of Land and Emergency Management
US Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, DC 20460
ph: 202-566-1942; fax: 202-566-0207
mobile: 202-368-0724

From: Overmeyer, Patricia
Sent: Tuesday, July 24, 2018 4:22 PM
To: Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Cc: Lloyd, David <Lloyd.DavidR@epa.gov>; Lentz, Rachel <Lentz.Rachel@epa.gov>; Leonard, Paul <leonard.paul@epa.gov>; Gervais, Gregory <Gervais.Gregory@epa.gov>
Subject: Draft FUDs Scenarios

Nick:

As follow up to our meeting with Barry, Peter, and Steven last week, the team has pulled together descriptions of a few draft scenarios related to Formerly Used Defense Sites (FUDs). Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 Could you please share the attached with Barry, Peter and Steven? Then please let us know what they may need in the form of next steps.

Thanks,
Patricia

Patricia Overmeyer
EPA Office of Brownfields and Land Revitalization
202-566-2774

Message

From: Grantham, Nancy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=12A3C2ED7158417FB0BB1B1B72A8CFB0-GRANTHAM, NANCY]
Sent: 7/23/2018 12:39:11 PM
To: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Fonseca, Silvina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d77d07be7386476380b9193170946863-Fonseca, Silvina]; Chancellor, Erin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ae6aeabeca754643bdb01c9f5b653ca6-Chancellor,]; Darwin, Veronica [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc98aaf2f15a466baede3dab0e27a35e-Darwin, Ver]; Falvo, Nicholas [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=424ac90ea7d8494a93209d14d37f2946-Falvo, Nich]
Subject: FW: East Chicago Press Clips, July 23, 2018

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Arcaute, Francisco
Sent: Monday, July 23, 2018 8:35 AM
To: Bassler, Rachel <Bassler.Rachel@epa.gov>; Singer, Joshua <Singer.Joshua@epa.gov>; Rowan, Anne <rowan.anne@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>; Kaplan, Robert <kaplan.robert@epa.gov>; Mitchell, James <mitchell.james@epa.gov>; Ballotti, Doug <ballotti.douglas@epa.gov>; Borries, Samuel <borries.samuel@epa.gov>; El-Zein, Jason <el-zein.jason@epa.gov>; Brown, Jaime <brown.jaime@epa.gov>; Benning, Brad <benning.bradley@epa.gov>; Miller, Kristina <miller.kristina@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Cannon, Phillippa <Cannon.Phillippa@epa.gov>; Woolford, James <Woolford.James@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Mankowski, Matthew <mankowski.matthew@epa.gov>; Alcamo, Thomas <alcamo.thomas@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Deamer, Eileen <deamer.eileen@epa.gov>; Kaiser, Steven <kaiser.steven@epa.gov>; Vega, Sonia <vega.sonia@epa.gov>; Pope, Janet <Pope.Janet@epa.gov>; Kelley, Jeff <kelley.jeff@epa.gov>; Beckmann, Ronna Erin <beckmann.ronna@epa.gov>; Ostermeier, Jennifer <Ostermeier.Jennifer@epa.gov>; Fortin, Denise <Fortin.Denise@epa.gov>; Korleski, Christopher <korleski.christopher@epa.gov>; Guerriero, Margaret <guerriero.margaret@epa.gov>; Milbourn, Cathy <Milbourn.Cathy@epa.gov>; Konkus, John <konkus.john@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Bucci, Anthony <bucci.anthony@epa.gov>; Ross, Anthony <ross.anthony@epa.gov>; Davis, Patrick <davis.patrick@epa.gov>; Garypie, Catherine <garypie.catherine@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Falvo, Nicholas <falvo.nicholas@epa.gov>; Fulghum, Mary <fulghum.mary@epa.gov>; Reshkin, Karen <Reshkin.Karen@epa.gov>; Lippert, Allison <lippert.allison@epa.gov>; Stepp, Cathy <stepp.cathy@epa.gov>; Thiede, Kurt <thiede.kurt@epa.gov>; Adler, Kevin <adler.kevin@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Payne, James <payne.james@epa.gov>
Cc: DORIAN.S.HAWKINS@hud.gov; Joel.A.Foreman@hud.gov; Lang, Annette (ENRD) <Annette.Lang@usdoj.gov>; Dixon, Douglas <Dixon.Douglas@epa.gov>; dane.m.narode@hud.gov; Courtney.B.Minor@hud.gov; Boseman, Anita <boseman.anita@epa.gov>; Chingcuanco, Leonardo <Chingcuanco.Leonardo@epa.gov>; Fischer, Timothy <Fischer.Timothy@epa.gov>; Khandeshi, Sparsh (ENRD) <Sparsh.Khandeshi@usdoj.gov>; Rolfes, Sarah

<Rolfes.Sarah@epa.gov>; Thomas, Katherine <thomas.katherine@epa.gov>
Subject: East Chicago Press Clips, July 23, 2018

East Chicago press clips
US EPA Region 5 – prepared by the Office of Public Affairs
July 23, 2018

NWI Times **UPDATE: Community groups say $26.6 million cleanup plan for old DuPont site doesn't go far enough**

Post Tribune **EPA finalizes $26.6 million cleanup for contaminated East Chicago site; will dispose material off site**

WRAL **EPA OKs $26.6M cleanup for former DuPont site in NW Indiana**

IIN Business **EPA Lays Out $26.6M Cleanup Plan in Northwest Indiana**

https://www.nwitimes.com/news/local/lake/update-community-groups-say-million-cleanup-plan-for-old-dupont/article_bd30b3f2-dca9-51bd-a531-c5de5f467178.html

UPDATE: Community groups say $26.6 million cleanup plan for old DuPont site doesn't go far enough

- Sarah Reese sarah.reese@nwi.com, 219-933-3351
- Jul 20, 2018 Updated Jul 21, 2018

EAST CHICAGO — Environmental groups reacted Friday to EPA's approval of a $26.6 million cleanup plan at the former DuPont/Chemours plant adjacent to the USS Lead Superfund site with skepticism, concern and dismay.

The cleanup of more than 200 acres at the former DuPont plant, 5215 Kennedy Ave., will address arsenic, lead, zinc and cadmium in the soil and arsenic in groundwater, the U.S. Environmental Protection Agency said.

EPA received more than 200 comments after releasing a proposed $22 million cleanup plan in November.

In response, the agency revised its plan to require all excavated contaminated soil to be disposed of off-site instead of in the on-site solid waste landfill. The change increased the cleanup cost by about $4 million.

The landfill will be closed, and EPA will require groundwater treatment, long-term monitoring and maintenance, the agency said. The agency also will conduct five-year reviews to evaluate to ensure the remedy it chose is effective and the companies paying for the cleanup are following through on financial commitments.

EPA scheduled a community meeting from 10 a.m. to noon Sept. 15 at the old Carrie Gosch Elementary School, 455 E. 148th St., according to a public notice.

Will plan protect residents?

The plan fails to address the imminent risks posed by groundwater, which flows north from the site through their neighborhood, said Debbie Chizewer, an attorney at Northwestern University's Pritzker Law School Environmental Advocacy Center working pro bono on behalf of the East Chicago/Calumet Coalition Community Advisory Group.

Residents say groundwater often floods basements during rainstorms because of the high water table in the area and gets pumped onto their lawns by sump pumps.

"While there is a measure of good news in that EPA has indicated that it will move off-site the excavated contaminated soil, residents remain concerned that this plan will not protect them from ongoing and serious groundwater contamination," Chizewer said.

EPA said it surveyed residents in the 4900 blocks of the East Calumet neighborhood and confirmed two out of 95 have sump water discharging onto the yard.

"EPA has begun sampling residential properties to determine if contamination is present in sump water," an agency spokesman said. "Lab results are pending, and the study is expected to be completed in fall 2018."

EPA also is studying groundwater as part of its remedial investigation of the former USS Lead facility, 5300 Kennedy Ave.

"As part of that remedial investigation, monitoring wells are slated to be installed across the residential neighborhoods in the USS Lead site in fall 2018," EPA said.

Rather than addressing the potential harm posed by groundwater, the plan instead defered those efforts to the USS Lead Superfund site, Chizewer said.

"Yet, that work will take years to even begin," she said.

Critic: Polluter driving decisions

Thomas Frank, co-founder of the Community Strategy Group, said he was disappointed and upset with the settlement.

"It's clear to us the community hasn't been heard, and their voice hasn't had much weight or standing," he said. "We've been consistently arguing for a cleanup, not capping."

EPA's final decision notes comments said off-site disposal of excavated soil would "facilitate 'green' redevelopment" of the site, but the decision requires the site owners to restrict access by maintaining fencing and signs to deter trespassing and update health and safety plans to protect on-site workers.

"The site owners also must maintain institutional controls preventing changes in land use from the current industrial use," the decision states.

The Graselli Chemical Co. was established at the site in 1892 and later purchased by E. I. du Pont de Nemours and Co.

DuPont entered into the EPA's Resource Conservation and Recovery Act program in the early 1980s, and the property has been listed as a hazardous waste site under EPA's RCRA program since 1997.

Redevelopment firm now owns site

DuPont spun off Chemours Co. in 2015 and conveyed title to the property to the new company. Chemours informed EPA June 29 it had conveyed title to the former DuPont facility and 30 acres leased to W.R. Grace and Co. to the redevelopment firm East Chicago Gateway Partners, EPA said.

"The cleanup at the former DuPont/Chemours plant helps pave the way for redevelopment opportunities in East Chicago that will bring jobs and economic growth to the community," EPA Regional Administrator Cathy Stepp said in a news release.

Frank criticized EPA for allowing polluters to drive cleanup plans by placing too much weight on how the property may be used in the future.

"DuPont came here and destroyed our ecosystem," Frank said. "They've broken the system here, and they are being allowed to walk away at a fraction of the cost to actually fix it. Because the damage is so severe, it's going to limit any future use for the next 100, 200 or even 400 years."

Nearby properties include a nature area, a residential neighborhood and a natural area at the DuPont site — which was restored in 2014 but is inaccessible because of ongoing risks to human health. Because of EPA's decision, the DuPont site cannot be used for recreation or residential purposes, Frank said.

"It puts constraints on future economic development and quality of life, because that continues to be a problem the community has to face," he said.

The decision document on the DuPont site, summary of EPA's response to comments and other information is at www.epa.gov/in/hazardous-waste-cleanup-dupont-facility-east-chicago-indiana.

http://www.chicagotribune.com/suburbs/post-tribune/news/ct-ptb-east-chicago-epa-dupont-st-0721-story.html

EPA finalizes $26.6 million cleanup for contaminated East Chicago site; will dispose material off site

Craig Lyons Post-Tribune

The U.S. Environmental Protection Agency said Friday that contaminated material remaining at an East Chicago plant will be removed from the site .

The EPA announced the $26.6 million cleanup of the former DuPont site, on Kennedy Avenue in East Chicago, has been finalized. After receiving more than 200 public comments on the proposed cleanup, the EPA decided to dispose of contaminated material off site, according to a press release.

“The cleanup at the former DuPont/Chemours plant helps pave the way for redevelopment opportunities in East Chicago that will bring jobs and economic growth to the community,” said EPA Regional Administrator Cathy Stepp, in a statement.

During public meetings in February and March, residents pushed the EPA for a more stringent cleanup for the former DuPont site, noting its close ties to much of the contamination in the Calumet neighborhood, which is part of the U.S.S. Lead Superfund site.

The EPA said the 440-acre facility, at 5215 Kennedy Ave., will focus on removing contaminated material and other industrial property at the site and treating groundwater. The EPA said the industrial land and water is contaminated with arsenic, lead, zinc and cadmium.

The EPA’s plans will remove 61,000 cubic yards of contaminated soil; treat groundwater and take steps to prevent it from leaving the site; fence the site and ensure compliance with industrial zoning requirements and health and safety rules for digging; and receive financial assurances from the site owner, according to a press release.

The cleanup will focus on three areas at the site: 155 acres of land for redevelopment; 50 acres of open area that was a former solid waste landfill; and a 30-acre leased area, according to the EPA.

In March, Greg Townsend, business development director for Chemours, which owns the former DuPont property, told residents the company plans to do everything required to clean the site and ready it for redevelopment.

EPA staff is tentatively planning a Sept. 15 meeting to discuss the project.

https://www.wral.com/epa-oks-26-6m-cleanup-for-former-dupont-site-in-nw-indiana/17713861/

https://www.sfchronicle.com/news/article/EPA-OKs-26-6M-cleanup-for-former-DuPont-site-in-13095409.php

EPA OKs $26.6M cleanup for former DuPont site in NW Indiana

July 22, 2018 Updated: July 22, 2018 8:49 a.m.

EAST CHICAGO, Ind. (AP) — Federal officials have approved a $26.6 million cleanup of a former DuPont Co. industrial site in northwestern Indiana that will remove lead and other heavy metals.

The plan announced Friday by the U.S. Environmental Protection Agency calls for disposing of the 440-acre East Chicago site's remaining contaminated material off-site.

Residents pushed during public meetings in February and March for a more stringent cleanup, noting the former DuPont site's close ties to contamination in the Calumet neighborhood that's part of the U.S.S. Lead Superfund site.

Both sites are along the Grand Calumet River.

The EPA the cleanup will focus on removing contaminated material and other industrial property at the former DuPont site and treating groundwater. The agency says the industrial land and water is contaminated with arsenic, lead, zinc and cadmium.

http://www.insideindianabusiness.com/story/38695360/epa-lays-out-266m-cleanup-plan-in-east-chicago-lake-county-northwest-indiana

EPA Lays Out $26.6M Cleanup Plan in Northwest Indiana

Posted: Jul 20, 2018 4:08 PM CDT
By Dan McGowan, Senior Writer/Reporter

EAST CHICAGO -

The U.S. Environmental Protection Agency has detailed a $26.6 million final remediation plan for most of the 440-acre former DuPont East Chicago chemical plant site. Delaware-based The Chemours Co., which spun-off of DuPont three years ago, owns the property that is contaminated by unsatisfactory levels of arsenic, lead, zinc and cadmium.

Following a 90-day public comment period that yielded 200 comments, the EPA increased the estimated cost of the cleanup from a $22.6 million November estimate. The EPA says it will now require the contaminated soil excavated on-site to be disposed of off-site.

EPA Regional Administrator Cathy Stepp says "the cleanup at the former DuPont/Chemours plant helps pave the way for redevelopment opportunities in East Chicago that will bring jobs and economic growth to the community."

Around half of the site is a natural area maintained by the Indiana Department of Natural Resources and a buffer area that was previously cleaned up. The property is located near the Grand Calumet River and the old USS Lead Superfund site where additional cleanup is ongoing.

You can connect to more about the site and the cleanup efforts by clicking here. A community meeting led by the EPA is scheduled for September 15 at the former Carrie Gosch School in East Chicago.

Message

From: Brooks, Becky [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6F369A2EF33E4A87AF349210A3915A57-BBROOKS]
Sent: 8/7/2018 5:41:12 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: FW: Previous briefing for Peter Wright
Attachments: Brownfields Basics for Peter Wright.pptx

For your electronic files.

Becky Brooks
Special Assistant
Office of Land and Emergency Management
U.S. Environmental Protection Agency
ph. 202-566-2762

From: Overmeyer, Patricia
Sent: Tuesday, August 07, 2018 1:32 PM
To: Brooks, Becky <Brooks.Becky@epa.gov>
Cc: Lloyd, David <Lloyd.DavidR@epa.gov>
Subject: Previous briefing for Peter Wright

Becky:

Attached is an electronic copy of the "intro to brownfields" briefing that we used when we met with Peter right after he came on board.

Patricia

Patricia Overmeyer
EPA Office of Brownfields and Land Revitalization
202-566-2774

Message

From: Lloyd, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3DEEDE75DB8E44A790B2F73DEBF00E12-LLOYD, DAVID]
Sent: 8/2/2018 6:07:59 PM
To: OLEM OBLR [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6d1a7ece71274cde882aa28d0be7e4d2-OSWER OBLR]; OLEM Brownfields Leadership Forum [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10644283539642b589800617bc37a070-Brownfields]; OLEM SF Reg DDs [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=22a2d96e1cb14c22a7e29ee598e0f80e-OSWER SF Reg DDs]; OLEM OD Deputies [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=55fcfb6355ea48d4bcf3ca38f35f1f62-OSWER OD Deputies]; Dalbey, Matthew [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=163a0950019048d598e22c167ef6aa33-Dalbey, Matthew]; Kackar, Adhir [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a4a500388f094cf6869b652e5dd07a3f-AKackar]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]
Subject: Presentation describing OBLR's Land Revitalization Tools
Attachments: BFs LR Tools_July 2018 (004).pptx

Colleagues, FYI, attached is a presentation that describes OBLR's Land Revitalization Tools. These tools were developed by our HQ Team working with the Regional and Program Offices' Land Revitalization Coordinators. If you have questions, please contact Aimee Storm at 202-566-0633.

David R. Lloyd, Director
Office of Brownfields and Land Revitalization
U.S. Environmental Protection Agency
Washington, DC
202-566-2731

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/30/2018 11:06:49 PM
To: Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: RE: Final OLEM Fact Sheets for Wheelers Background Book

Jackie

I echo Steven's appreciation for your work.

Thank you.

Peter

From: Cook, Steven
Sent: Monday, July 30, 2018 6:56 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>
Subject: RE: Final OLEM Fact Sheets for Wheelers Background Book

Appreciate all the hard work.

From: Harwood, Jackie
Sent: Monday, July 30, 2018 6:41 PM
To: Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>
Subject: FYI: Final OLEM Fact Sheets for Wheelers Background Book

Hi Peter and Steven,

Attached are the final OLEM fact sheets for Wheeler's background book – in case you need them tomorrow. I've also attached the:

- List of OLEM questions and answers
- Two short "cheat sheets" on RMP and CCR, and
- OLEM's original consolidated list of talking points.

Please let me know if you have any questions or need anything else on this.

Thanks.
Jackie

Jackie Harwood

OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Levine, Carolyn
Sent: Friday, July 27, 2018 5:08 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: HQ issue papers

Carolyn Levine
Office of Congressional and
Intergovernmental Relations
U.S. EPA
(202) 564-1859
levine.carolyn@epa.gov

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 8/1/2018 3:50:28 PM
To: Leopold, Matt (OGC) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]
CC: McIntosh, Chad [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e328de48699c4747ad3a421e3aa5e850-McIntosh, W]
Subject: Re: Senate panel advances four environmental nominees

Matt

Thank you and thanks to your staff for all of their support.

Peter

Sent from my iPad

On Aug 1, 2018, at 11:47 AM, Leopold, Matt (OGC) <Leopold.Matt@epa.gov> wrote:

> Congrats to you both. Here's hoping for a swift confirmation.
>
> Sent from my iPhone
>
> Begin forwarded message:
>
> > **From:** "POLITICO Pro Energy Whiteboard" <politicoemail@politicopro.com>
> > **Date:** August 1, 2018 at 9:41:53 AM CDT
> > **To:** <leopold.matt@epa.gov>
> > **Subject: Senate panel advances four environmental nominees**
> > **Reply-To:** "POLITICO subscriptions" <reply-fe8b1376756c027574-1159543_HTML-878713253-1376319-0@politicoemail.com>
> >
> > By Anthony Adragna
> >
> > 08/01/2018 10:40 AM EDT
> >
> > The Senate Environment and Public Works Committee advanced four nominations to various EPA, White House and Commerce roles on largely party-line votes.
> >
> > Lawmakers advanced the nominations of:
> >
> > —Peter Wright to be assistant EPA administrator for the Office of Land and Emergency Management on a 11-10 vote;
> > —Mary Neumayr to lead the White House Council on Environmental Quality on a 11-10 vote;
> > —Charles McIntosh to be assistant EPA administrator for the Office of International and Tribal Affairs on a 11-10 vote; and,
> > —Former Louisiana Rep. John Fleming to serve as assistant secretary of Commerce for economic development on a 15-6 vote.

Democrats voiced concern over potential conflicts of interest for Wright given his work for Dow Chemical Co. and Neumayr's views on ocean policy and changes to the National Environmental Policy Act.

WHAT'S NEXT: The four nominees join a list of executive branch nominees awaiting floor action on their selections.

To view online:
https://subscriber.politicopro.com/energy/whiteboard/2018/08/senate-panel-advances-four-environmental-nominees-1707275

You received this POLITICO Pro content because your customized settings include: Energy: EPA. To change your alert settings, please go to https://subscriber.politicopro.com/settings

POLITICOPRO

This email was sent to leopold.matt@epa.gov by: POLITICO, LLC 1000 Wilson Blvd. Arlington, VA, 22209, USA

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 8/1/2018 2:05:31 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: Fwd: FUDS Background info

Sent from my iPad

Begin forwarded message:

From: "Jackson, Ryan" <jackson.ryan@epa.gov>
Date: July 13, 2018 at 3:43:03 PM EDT
To: "Wright, Peter" <wright.peter@epa.gov>
Cc: "Breen, Barry" <Breen.Barry@epa.gov>, "Cook, Steven" <cook.steven@epa.gov>
Subject: RE: FUDS Background info

That would be perfect. I'm looking forward to that. Thank you.

-----Original Message-----
From: Wright, Peter
Sent: Friday, July 13, 2018 2:14 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Subject: RE: FUDS Background info

Ryan

We have reviewed the material provided by DOD and consulted with colleagues in FFRRO and OBLR. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Let us know when you think a briefing would be timely.

Peter

-----Original Message-----

From: Jackson, Ryan
Sent: Wednesday, July 11, 2018 4:29 PM
To: Wright, Peter <wright.peter@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Subject: FW: FUDS Background info

Gentlemen --

Deliberative Process / Ex. 5

Thanks

Ryan.

-----Original Message-----
From: Niemeyer, Lucian L II HON OSD OUSD ATL (US)
[mailto:lucian.l.niemeyer.civ@mail.mil]
Sent: Tuesday, July 10, 2018 4:54 PM
To: Wheeler, Andrew <wheeler.andrew@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: FUDS Background info

Andrew: Thanks for the call and follow-up. Here is some background information for your staff.

Deliberative Process / Ex. 5

USACE website with overview https://www.usace.army.mil/Missions/Environmental/Formerly-Used-Defense-Sites/

I wrote an article on the topic last year. https://www.cato.org/publications/commentary/turning-former-military-bases-economic-development

Deliberative Process / Ex. 5

Congratulations again.

Respectfully,

Lucian Niemeyer, ASD (EIE)
Phone: Personal Phone / Ex. 6
Cell: (Personal Phone / Ex. 6

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 8/9/2018 3:53:32 PM
To: Indermark, Michele [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cf63a0730b3e4d89aa3b8ce9a5d9eab2-Indermark,]; Cheatham, Reggie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c04c7b4fbf4d45108592282991c719cb-RCheatha]
CC: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Bennett, Tate [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1fa92542f7ca4d01973b18b2f11b9141-Bennett, El]; Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]
Subject: RE: CERCLA Reporting Rule

Reggie and Michele

Thank you for the quick turnaround.

Peter

From: Indermark, Michele
Sent: Thursday, August 9, 2018 8:46 AM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>
Subject: RE: CERCLA Reporting Rule

Hi All,

I'm providing the final paper we submitted for Andrew Wheeler's hearing on 1 Aug. We also developed a Q/A document that covers RMP, hurricane preparedness and CERCLA/EPCRA FARM Act and I've attached it for your use. Please let us know if you need anything else.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Cheatham, Reggie
Sent: Thursday, August 09, 2018 8:39 AM
To: Bennett, Tate <Bennett.Tate@epa.gov>; Wright, Peter <wright.peter@epa.gov>

Cc: Cook, Steven <cook.steven@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: RE: CERCLA Reporting Rule

Folks....please disregard the attachments I sent....we discovered a version control problem...Michele is sending the final versions.

Thanks

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202.564.8003 (O); 202.689.9400 (M);
cheatham.reggie@epa.gov
Doris Williams, Executive Assistant
202.564.0053

From: Cheatham, Reggie
Sent: Thursday, August 09, 2018 8:26 AM
To: Bennett, Tate <Bennett.Tate@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: RE: CERCLA Reporting Rule

Tate

Attached is the CERCLA/EPCRA white paper we did for the Administrator's SEPW hearing. This has been cleared by OGC.

Additionally, here is the Q and A we drafted, in case this comes up:

Deliberative Process / Ex. 5

Let us know if you need any additional information.

Thanks

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202.564.8003 (O); 202.689.9400 (M);
cheatham.reggie@epa.gov
Doris Williams, Executive Assistant

202.564.0053

From: Bennett, Tate
Sent: Thursday, August 09, 2018 7:45 AM
To: Wright, Peter <wright.peter@epa.gov>
Cc: Cheatham, Reggie <cheatham.reggie@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: Re: CERCLA Reporting Rule

Great. Can you pass it along?

On Aug 9, 2018, at 7:36 AM, Wright, Peter <wright.peter@epa.gov> wrote:

> All
>
> We prepared a summary on this topic for the Administrator's Senate hearing briefing book.
>
> Peter
>
> Sent from my iPhone
>
> On Aug 8, 2018, at 8:56 PM, Cheatham, Reggie <cheatham.reggie@epa.gov> wrote:
>
>> Got it Tate
>>
>> Thanks
>>
>> Reggie Cheatham, Director
>> Office of Emergency Management, USEPA
>> 202/564-8003(o)/202/689-9400
>> Doris Williams, Executive Assistant
>> 202/564-0053
>>
>> On Aug 8, 2018, at 8:54 PM, Bennett, Tate <Bennett.Tate@epa.gov> wrote:
>>
>>> Thank you. No need to recreate the wheel, just something similar to what was covered in our official press release.
>>>
>>> On Aug 8, 2018, at 8:53 PM, Cheatham, Reggie <cheatham.reggie@epa.gov> wrote:
>>>
>>>> We will get talkers to Tate
>>>>
>>>> Thanks
>>>>
>>>> Reggie Cheatham, Director
>>>> Office of Emergency Management, USEPA
>>>> 202/564-8003(o)/202/689-9400
>>>> Doris Williams, Executive Assistant
>>>> 202/564-0053
>>>>
>>>> On Aug 8, 2018, at 6:53 PM, Cook, Steven <cook.steven@epa.gov> wrote:

Can someone help out here since I am wandering the left coast ?

Sent from my iPhone

Begin forwarded message:

From: "Bennett, Tate" <Bennett.Tate@epa.gov>
Date: August 8, 2018 at 1:21:44 PM PDT
To: "Cook, Steven" <cook.steven@epa.gov>
Cc: "Dickerson, Aaron" <dickerson.aaron@epa.gov>, "Lovell, Will (William)" <lovell.william@epa.gov>
Subject: CERCLA Reporting Rule

Deliberative Process / Ex. 5

Elizabeth Tate Bennett
Associate Administrator
for Public Engagement
& Environmental
Education
Office of the
Administrator
U.S. Environmental
Protection Agency
(202) 564-1460
Bennett.Tate@epa.gov

From: Wright, Peter
To: Grantham, Nancy
Sent: 7/26/2018 8:23:24 PM
Subject: University of Michigan Dioxin Exposure Study Science Advisory Board

https://sph.umich.edu/dioxin/images/top-1.jpg

UM Dioxin Home
What's New
How We Did The Study
Protocol
Confidentiality
Brochures
Letters to Study Participants
Informed Consent Documents
What The Study Showed
January 2011 Results
August 2006 Results
Dioxin Measurements in Blood, Dust & Soil
Questionnaire Responses
Presentations at Scientific Conferences
Presentations at Community Meetings
Publications in Scientific Journals
Stakeholder Requests for Analyses
Definitions
In The News
People Involved In The Study
UM Researchers
Scientific Advisory Board
Community Advisory Panel
Dioxin Information
References
Links

Scientific Advisory Board

Linda Birnbaum, PhD - Director, National Institute for Environmental Health Sciences (member 2004 - present)

Paolo Boffetta, MD - Epidemiologist, International Agency for Research on Cancer (member 2004 - present)

Ronald Hites, PhD - Environmental Scientist, Indiana University (member 2004 - present)

David Kleinbaum, PhD - Statistician, Emory University (member 2004 - 2006)

Marie Haring Sweeney, PhD - Epidemiologist, National Institute for Occupational Safety and Health (member 2007 - present)

©2006 Regents of the University of Michigan

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 8/14/2018 1:55:43 PM
To: Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]
CC: Wilson, Erika [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=57799aef8ca04393a26f102efa5bd45e-Wilson, Erika]
Subject: Re: Morning session suggestions

Kent

Thank you for the suggestions. I will check out the two referenced sessions.

Peter

Sent from my iPad

> On Aug 14, 2018, at 6:25 AM, Benjamin, Kent <Benjamin.Kent@epa.gov> wrote:
>
> Peter, here are a couple of sessions that might be interesting and helpful for background on OLEM tribal highlights.
>
> Room 302 AB 8:00 - 9:45
> Updates on ITF and addressing Open Dumps
>
> Room 401 AB 9:00 - 10:00
> Emergency Response: FEMA and US roles and responsibilities
>
> Field trip (may be full)
> 8:00-12:00 Walking tour of Brownfields sites along Spokane River
>
> Just some suggestions
>
>
>
> Kent Benjamin, Acting Office Director. OCPA OLEM. 202-565-9095. Sent from my iPhone

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/26/2018 8:21:56 PM
To: Grantham, Nancy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=12a3c2ed7158417fb0bb1b1b72a8cfb0-Grantham, Nancy]
Subject: MDEQ Approval of Midland Dioxin Soil Cleanup
Attachments: deq-owmrp-hws_2016-07-21_Dow_724_MAS_CA_Report_Approval_Letter_CA_539484_7.pdf

Nancy

Here is one of the documents we discussed.

Peter

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING

RICK SNYDER
GOVERNOR

KEITH CREAGH
DIRECTOR

July 21, 2016

Mr. Steven C. Lucas
Senior Remediation Leader
The Dow Chemical Company
1790 Building
Midland, Michigan 48674

Dear Mr. Lucas:

SUBJECT: Approval of Revised Corrective Action Report, Midland Area Soils; The Dow Chemical Company, Michigan Operations, Midland Plant; Midland, Michigan; MID 000 724 724

The Department of Environmental Quality (DEQ), Office of Waste Management and Radiological Protection (OWMRP), has completed a review of the Corrective Action Report, Midland Area Soils (Report). The Report was submitted by The Dow Chemical Company (Dow) on January 8, 2016, and was most recently revised on May 6, 2016, in response to review comments from the DEQ. The Report was submitted as part of corrective action work required under Condition XI.B. of the Hazardous Waste Management Facility Operating License (License) renewal issued to Dow by the DEQ in 2015 pursuant to Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451), and the federal Resource Conservation and Recovery Act of 1976.

This Report was designed to be an important and major part of a final remedial action intended to represent the response action for direct contact to soils for Dow's off-site corrective action obligations under Conditions XI.B. and XI.J. of the License. Therefore, the DEQ conducted public participation pursuant to Condition XI.B.2. of the License and R 299.9511 of the Part 111 administrative rules, including a public comment period held from May 6, 2016, to June 20, 2016, and two public open houses held on June 6, 2016. No significant comments were submitted during the public comment period, and therefore, no significant changes were made to the draft Report. The DEQ will be sending the enclosed notice of this final decision to all persons on the facility mailing list and to the appropriate units of state and local government.

Based on the DEQ's review of the revised Report submitted on May 6, 2016, and since no significant public comments were obtained during the public comment period, the revised Report is hereby approved. In accordance with Condition XI.B.2. of the License, the approved Report becomes an enforceable condition of, and Attachment 18 to, the License. This approval constitutes a CA800 Ready for Anticipated Use Determination for Midland Area Soils.

The DEQ reserves its rights in regard to hazardous substances, as defined in Section 20101 of Part 201, Environmental Remediation, of Act 451, beyond those identified and addressed as a part of the revised Report. This approval does not convey any rights regarding unknown environmental conditions or compliance with other environmental laws and regulations.

Should you have any questions regarding this approval, please contact Mr. Al Taylor, of my staff, at 517-614-7335; taylora@michigan.gov; or DEQ, OWMRP, P.O. Box 30241, Lansing, Michigan 48909-7741; or you may contact me.

Sincerely,

DeLores Montgomery, Chief
Hazardous Waste Section
Office of Waste Management and
Radiological Protection
517-284-6565

Enclosure
cc: Mr. Jose Cisneros, U.S. Environmental Protection Agency
Ms. Virginia Himich, DEQ
cc/enc: Mr. Greg Rudloff, U.S. Environmental Protection Agency
Mr. Jim Sygo, DEQ
Mr. Steve Sliver, DEQ
Mr. Phil Roycraft, DEQ
Ms. Trisha Confer, DEQ
Mr. Al Taylor, DEQ
Dr. Deb MacKenzie-Taylor, DEQ
Mr. Art Ostaszewski, DEQ
Mr. Dan Dailey, DEQ
Corrective Action File – Midland Area Soils

Michigan Department of Environmental Quality
Office of Waste Management and Radiological Protection

NOTICE OF FINAL DECISION

Midland Area Soils, Corrective Action Report
The Dow Chemical Company, Michigan Operations, Midland Plant
MID 000 724 724
July 21, 2016

On June 6, 2016, the Michigan Department of Environmental Quality (DEQ), Office of Waste Management and Radiological Protection (OWMRP), held two public open houses to receive comments on the Revised Corrective Action Report, Midland Area Soils (Report) submitted by The Dow Chemical Company (Dow), Michigan Operations, Midland Plant, located at 1790 Building, Midland, Michigan 48674, on May 6, 2016, as part of corrective action work required under the Hazardous Waste Management Facility Operating License Renewal (License) reissued to Dow by the DEQ in 2015 pursuant to Part 111, Hazardous Waste Management, of Michigan's Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451), and the federal Resource Conservation and Recovery Act of 1976 (RCRA). The DEQ approved the Report on July 21, 2016.

A public comment period on the draft Report was announced in the Midland Daily News on May 6, 2016. Two public open houses were also held on June 6, 2016, from 3:00 p.m. to 5:00 p.m. and from 7:00 p.m. to 9:00 p.m. The public comment period extended from May 6, 2016 to June 20, 2016. On May 30, 2016, a notice regarding the two public open houses on the proposed Report also appeared in the DEQ Environmental Calendar, which is published every two weeks to provide public notice of pending public hearings, DEQ decisions, etc.

In accordance with Condition XI.B. of the License and R 299.9511 of the Part 111 administrative rules, the DEQ is required to respond to significant comments submitted during the public comment period and to describe any significant changes made to the draft Report. No significant public comments were received during the public comment period or at the public open houses. Therefore, no changes were made to the draft Report prior to approval.

The approved Report and Notice of Final Decision may be reviewed at the Reference Desk of the Grace A. Dow Memorial Library, 1710 West St. Andrews Street, Midland, Michigan, and the DEQ, Saginaw Bay District Office, 401 Ketchum Street, Suite B, Bay City, Michigan (contact Ms. Trisha Confer at 989-225-7968). The approved Report and related materials are also available at the DEQ, OWMRP, Constitution Hall, Atrium North, 525 West Allegan Street, Lansing, Michigan (contact Mr. Al Taylor at 517-614-7335) and at http://www.michigan.gov/deqdioxin under "Midland Area Soil Cleanup". Copies of the documents may be obtained for the cost of reproduction by sending your request to Mr. Al Taylor, DEQ, OWMRP, P.O. Box 30241, Lansing, Michigan 48909-7741 or taylora@michigan.gov. Depending upon the items requested, there may be a charge for reproduction and mailing costs.

This Notice of Final Decision is being sent to the individuals on the DEQ's Dow facility mailing list. To have your name added to or removed from the DEQ's Dow facility mailing list, please contact Ms. Amy Nevison at nevisona@michigan.gov or at 517-284-6562.

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/27/2018 10:11:34 PM
To: Konkus, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=555471b2baa6419e8e141696f4577062-Konkus, Joh]; Grantham, Nancy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=12a3c2ed7158417fb0bb1b1b72a8cfb0-Grantham, Nancy]
Subject: Fwd: New York Times follow-up query re: Peter Wright

John and Nancy

Here is her reply.

My EPA cell is Personal Phone / Ex. 6
My personal cell Personal Phone / Ex. 6

I will have both with me all weekend.

Thank you for all of the tremendous support.

Peter

Sent from my iPhone

Begin forwarded message:

> **From:** "Tabuchi, Hiroko" <hiroko.tabuchi@nytimes.com>
> **Date:** July 27, 2018 at 6:00:53 PM EDT
> **To:** wright.peter@epa.gov
> **Subject: Fwd: New York Times follow-up query re: Peter Wright**
>
> Mr. Wright, I wasn't sure whether this email address was already working -- but I wanted to make sure you were aware of our questions to EPA regarding your appointment to the assistant administrator job. Let us know if you had any comments or are able to speak with us. Thanks, Hiroko
>
> Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 | hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi
>
> ---------- Forwarded message ----------
> From: **Tabuchi, Hiroko** <hiroko.tabuchi@nytimes.com>
> Date: Wed, Jul 25, 2018 at 1:51 PM
> Subject: New York Times follow-up query re: Peter Wright
> To: "Hewitt, James" <hewitt.james@epa.gov>
> Cc: Tryggvi Adalbjornsson <tryggvi.adalbjornsson@nytimes.com>
>
> Dear James,

Thanks again for getting me on the phone with Kevin Minoli regarding Peter Wright's nomination to become E.P.A. assistant administrator. Here are a series of facts and factual assertions and questions based on further reporting on Mr. Wright.

Our overall assertion is that Mr. Wright helped lead a team at Dow accused by regulators and Dow's own staff of submitting disputed data on dioxin contamination, misrepresenting scientific evidence, and delaying the cleanup at one of the country's most toxic sites.

We welcome responses to these questions individually and any clarifications or disagreements with factual assertions as well. Finally, we welcome any on the record statement you want to make. We ask for responses by EOB tomorrow (Thursday).

Hiroko and Tryggvi

212-556-2642 (Hiroko direct line)
917-615-4180 (Hiroko cell)

FACTUAL ASSERTIONS:

++Mr. Wright was born in LA and spent 19 years at Dow. Before Dow, he was employed by Monsanto. In 2003, he was named to the Michigan Dioxin Initiative, a five-person executive team at Dow tasked with designing and negotiating the details of a cleanup of dioxin and other contamination in the Tittawbassee and Saginaw watersheds. That river network flows some 50 miles into Lake Huron. Mr. Wright was the only lawyer on the team, and led its legal strategy.

++Mr. Wright has pointed to his work on the Michigan site as his biggest accomplishment. In a 2017 email to the E.P.A.'s chief of staff Ryan Jackson, Mr. Wright called it "the most controversial matter and single most publicly successful matter that I have worked on at Dow."

++DowDuPont has at least partial responsibility at 171 locations nationwide, or almost 14 percent of all sites on the E.P.A.'s list of priority Superfund cleanups, according to E.P.A. data. QUESTION: According to our analysis of the data, DowDuPont is linked to more NPL Superfund sites than any other company. Is this in line with E.P.A.'s analysis?

++In 2004 and 2005, state and federal officials twice discovered Dow contractors collecting soil samples along the Tittabawassee without telling regulators, which violated a Dow operating license. The unauthorized sampling not only prevented regulators from verifying Dow's results, state officials warned, but could enable Dow to identify hotspots in order to downplay them when designing cleanup plans. Mr. Wright was one of three Dow representatives on a May 2005 phone call with the E.P.A. and the M.D.E.Q. instructing the company to abide by the rules. Later, Michigan fined Dow $70,000 for the unauthorized sampling.

++Dow newsletters in 2004 to local residents stated that few health effects were tied to dioxin exposure, an assertion the E.P.A. has taken issue with. A study released by Dow also found that wild game — deer, turkey, squirrel — had elevated dioxin levels but was safe to eat. Michigan's health department disagreed and warned people not to eat the meat.

++Mr. Wright separately authored an article in 2005 on dioxin risk in the American Bar Association's Natural Resources and Environment, describing dioxin as "highly toxic to a variety of animal species but not to humans." This goes against the opinion of several dioxin experts we spoke to.

++Mr. Wright also participated in discussions with researchers and regulators about a Dow-funded study at the University of Michigan that had found that living on dioxin-contaminated soil was not associated with higher dioxin levels in the body. (E.P.A. officials at the time believed the study "was initiated at the request of Dow in order to downplay the risks of exposure.")

++Mr. Wright's team was criticized by E.P.A. in the mid-2000s for stalling on the cleanup. ("E.P.A. is concerned with Dow's lack of progress in addressing the significantly elevated levels of dioxin and furan contamination in the Saginaw Bay watershed," a June 2007 E.P.A. memo states.)

++In 2006, an independent lab testing company hired to validate Dow's data on contamination rejected Dow's numbers. The company, Project Enhancement Corporation, terminated its contract with Dow, citing the chemical company's "major technical noncompliance," and a "breakdown" in Dow's testing procedures, according to the termination letter it sent to Dow.

++Priscilla Denney, a senior environmental engineer on Mr. Wright's team, warned Dow about PEC's concerns. (Dow had changed the way it submitted its data while she was on maternity leave, making it impossible for a third party to validate Dow's results, particularly those that showed no levels of contamination.) She later claimed in a whistleblower suit that her concerns about Dow's data were ignored and that she had been demoted in retaliation. Mr. Wright, who was deposed as part of the case, said he helped investigate Ms. Denney's concerns. In the deposition, he also calls himself Dow's "dioxin lawyer."

++Dow submitted the data to the Michigan environmental regulator and to the E.P.A. in February 2007 without mentioning PEC's concerns

++In May 2008, then E.P.A. Region 5 administrator Mary Gade was forced to resign, after Dow appealed to officials in Washington, according to emails that have since been made public. Ms. Gade told the Chicago Tribune at the time that "there was no question" she had been pushed out because of pressure from Dow.

QUESTIONS:

++Does E.P.A. believe that any of the above in any way affect the suitability of Mr. Wright's appointment to the OLEM role, or his ability to carry out his tasks on the job?

++Some environmental groups have criticized Mr. Wright's appointment, saying Dow's exposure to Superfund sites presents a major conflict of interest. Is this a fair assertion?

++When does E.P.A. expect the Michigan dioxin cleanup to be complete?

++What role did Dow play in the appointment of Mr. Wright to the E.P.A. assistant administrator role?

++Any other on-the-record statement regarding the above?

Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 | hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 8/22/2018 1:14:58 PM
To: Cheatham, Reggie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c04c7b4fbf4d45108592282991c719cb-RCheatha]
CC: Hostage, Barbara [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=13c503d29e7a4eceb13c449d182eca25-BHostage]; Jennings, Kim [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7eeab2bece9b461e949b23d538b7964a-kjenning]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cogliano, Gerain [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4ba589a367194efd92030bfbe891a298-Cogliano, Gerain]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Gioffre, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31f5c89e985847ecaeec14283e8fc914-PFLEMI02]; Simon, Nigel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2f1084d32324dcd965683a9d2f09764-Simon, Nigel]; Clark, Becki [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a906e07f1cd143b9a3c2ddab813b8140-Clark, Becki]; Indermark, Michele [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cf63a0730b3e4d89aa3b8ce9a5d9eab2-Indermark,]
Subject: RE: RMP Rule Vacatur Options Paper and Compliance Dates

Reggie

This is very helpful.

Thank you and the others at OEM who prepared these documents.

Peter

From: Cheatham, Reggie
Sent: Wednesday, August 22, 2018 8:51 AM
To: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Simon, Nigel <Simon.Nigel@epa.gov>
Cc: Hostage, Barbara <Hostage.Barbara@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: RMP Rule Vacatur Options Paper and Compliance Dates

Per our discussion yesterday, the team in RID pulled together an options paper to walk through how things potentially could unfold. We are still awaiting the results from discussions between DOJ and Industry and will update you when more information becomes available. Thoughts, comments and questions appreciated.

Thanks

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202.564.8003 (O); 202.689.9400 (M);
cheatham.reggie@epa.gov

Doris Williams, Executive Assistant
202.564.0053

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/27/2018 10:07:45 PM
To: Tabuchi, Hiroko [hiroko.tabuchi@nytimes.com]
CC: Konkus, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=555471b2baa6419e8e141696f4577062-Konkus, Joh]; Grantham, Nancy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=12a3c2ed7158417fb0bb1b1b72a8cfb0-Grantham, Nancy]
Subject: Re: New York Times follow-up query re: Peter Wright

Ms Tabuchi

I would like to refer you to my colleagues John and Nancy who I know you have been working with on your story.

Regards,

Peter Wright

Sent from my iPhone

On Jul 27, 2018, at 6:01 PM, Tabuchi, Hiroko <hiroko.tabuchi@nytimes.com> wrote:

> Mr. Wright, I wasn't sure whether this email address was already working -- but I wanted to make sure you were aware of our questions to EPA regarding your appointment to the assistant administrator job. Let us know if you had any comments or are able to speak with us. Thanks, Hiroko
>
> Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 | hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi
>
> ---------- Forwarded message ----------
> From: **Tabuchi, Hiroko** <hiroko.tabuchi@nytimes.com>
> Date: Wed, Jul 25, 2018 at 1:51 PM
> Subject: New York Times follow-up query re: Peter Wright
> To: "Hewitt, James" <hewitt.james@epa.gov>
> Cc: Tryggvi Adalbjornsson <tryggvi.adalbjornsson@nytimes.com>
>
> Dear James,
>
> Thanks again for getting me on the phone with Kevin Minoli regarding Peter Wright's nomination to become E.P.A. assistant administrator. Here are a series of facts and factual assertions and questions based on further reporting on Mr. Wright.
>
> Our overall assertion is that Mr. Wright helped lead a team at Dow accused by regulators and Dow's own staff of submitting disputed data on dioxin contamination, misrepresenting scientific evidence, and

delaying the cleanup at one of the country's most toxic sites.

We welcome responses to these questions individually and any clarifications or disagreements with factual assertions as well. Finally, we welcome any on the record statement you want to make. We ask for responses by EOB tomorrow (Thursday).

Hiroko and Tryggvi

212-556-2642 (Hiroko direct line)
917-615-4180 (Hiroko cell)

FACTUAL ASSERTIONS:

++Mr. Wright was born in LA and spent 19 years at Dow. Before Dow, he was employed by Monsanto. In 2003, he was named to the Michigan Dioxin Initiative, a five-person executive team at Dow tasked with designing and negotiating the details of a cleanup of dioxin and other contamination in the Tittawbassee and Saginaw watersheds. That river network flows some 50 miles into Lake Huron. Mr. Wright was the only lawyer on the team, and led its legal strategy.

++Mr. Wright has pointed to his work on the Michigan site as his biggest accomplishment. In a 2017 email to the E.P.A.'s chief of staff Ryan Jackson, Mr. Wright called it "the most controversial matter and single most publicly successful matter that I have worked on at Dow."

++DowDuPont has at least partial responsibility at 171 locations nationwide, or almost 14 percent of all sites on the E.P.A.'s list of priority Superfund cleanups, according to E.P.A. data. QUESTION: According to our analysis of the data, DowDuPont is linked to more NPL Superfund sites than any other company. Is this in line with E.P.A.'s analysis?

++In 2004 and 2005, state and federal officials twice discovered Dow contractors collecting soil samples along the Tittabawassee without telling regulators, which violated a Dow operating license. The unauthorized sampling not only prevented regulators from verifying Dow's results, state officials warned, but could enable Dow to identify hotspots in order to downplay them when designing cleanup plans. Mr. Wright was one of three Dow representatives on a May 2005 phone call with the E.P.A. and the M.D.E.Q. instructing the company to abide by the rules. Later, Michigan fined Dow $70,000 for the unauthorized sampling.

++Dow newsletters in 2004 to local residents stated that few health effects were tied to dioxin exposure, an assertion the E.P.A. has taken issue with. A study released by Dow also found that wild game — deer, turkey, squirrel — had elevated dioxin levels but was safe to eat. Michigan's health department disagreed and warned people not to eat the meat.

++Mr. Wright separately authored an article in 2005 on dioxin risk in the American Bar Association's Natural Resources and Environment, describing dioxin as "highly toxic to a variety of animal species but not to humans." This goes against the opinion of several dioxin experts we spoke to.

++Mr. Wright also participated in discussions with researchers and regulators about a Dow-funded study at the University of Michigan that had found that living on dioxin-contaminated soil was not associated with higher dioxin levels in the body. (E.P.A. officials at the time believed the study "was initiated at the request of Dow in order to downplay the risks of exposure.")

++Mr. Wright's team was criticized by E.P.A. in the mid-2000s for stalling on the cleanup. ("E.P.A. is concerned with Dow's lack of progress in addressing the significantly elevated levels of dioxin and furan contamination in the Saginaw Bay watershed," a June 2007 E.P.A. memo states.)

++In 2006, an independent lab testing company hired to validate Dow's data on contamination rejected Dow's numbers. The company, Project Enhancement Corporation, terminated its contract with Dow, citing the chemical company's "major technical noncompliance," and a "breakdown" in Dow's testing procedures, according to the termination letter it sent to Dow.

++Priscilla Denney, a senior environmental engineer on Mr. Wright's team, warned Dow about PEC's concerns. (Dow had changed the way it submitted its data while she was on maternity leave, making it impossible for a third party to validate Dow's results, particularly those that showed no levels of contamination.) She later claimed in a whistleblower suit that her concerns about Dow's data were ignored and that she had been demoted in retaliation. Mr. Wright, who was deposed as part of the case, said he helped investigate Ms. Denney's concerns. In the deposition, he also calls himself Dow's "dioxin lawyer."

++Dow submitted the data to the Michigan environmental regulator and to the E.P.A. in February 2007 without mentioning PEC's concerns

++In May 2008, then E.P.A. Region 5 administrator Mary Gade was forced to resign, after Dow appealed to officials in Washington, according to emails that have since been made public. Ms. Gade told the Chicago Tribune at the time that "there was no question" she had been pushed out because of pressure from Dow.

QUESTIONS:

++Does E.P.A. believe that any of the above in any way affect the suitability of Mr. Wright's appointment to the OLEM role, or his ability to carry out his tasks on the job?

++Some environmental groups have criticized Mr. Wright's appointment,

saying Dow's exposure to Superfund sites presents a major conflict of interest. Is this a fair assertion?

++When does E.P.A. expect the Michigan dioxin cleanup to be complete?

++What role did Dow play in the appointment of Mr. Wright to the E.P.A. assistant administrator role?

++Any other on-the-record statement regarding the above?

Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 | hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/27/2018 9:37:25 PM
To: Grantham, Nancy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=12a3c2ed7158417fb0bb1b1b72a8cfb0-Grantham, Nancy]
Subject: RE: Follow-up Information from EPA re: Peter Wright

Nancy

My weekend will be much better for your report.

Have a great weekend as well.

Peter

From: Grantham, Nancy
Sent: Friday, July 27, 2018 5:36 PM
To: Wright, Peter <wright.peter@epa.gov>
Subject: RE: Follow-up Information from EPA re: Peter Wright

Thanks .. have a great weekend.

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

From: Wright, Peter
Sent: Friday, July 27, 2018 5:35 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: RE: Follow-up Information from EPA re: Peter Wright

Nancy

Thank you and our colleagues for all of your efforts on my behalf. I have nothing further to add or suggest. I do not have much in the way of hobbies. Over the last number of years, when away from work I have been very active with my college in alumni matters and working with undergraduates and with the ABA's Environmental Section (I have now had to give up formal positions with both).

Peter

From: Grantham, Nancy
Sent: Friday, July 27, 2018 5:19 PM
To: Wright, Peter <wright.peter@epa.gov>
Subject: FW: Follow-up Information from EPA re: Peter Wright
Importance: High

As discussed

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

From: Grantham, Nancy
Sent: Friday, July 27, 2018 4:42 PM
To: Tabuchi, Hiroko <hiroko.tabuchi@nytimes.com>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Konkus, John <konkus.john@epa.gov>
Subject: Follow-up Information from EPA re: Peter Wright
Importance: High

Hiroko: Thank you for taking the time to speak with us earlier. Below are quotes from your call with EPA Region 5 career staff as well as some additional on-the-record quotes we would encourage you to use in your article.

Additionally, attached are three important documents for your reference: July 2106 letter from the Michigan DEQ on Midland; February 28 letter from John Milner, Chair of the ABA's Section on Environment, Energy, and Resources, supporting Mr. Wright's nomination; Mr. Wright's recusal statement.

Finally, below the quotes is background material to answer your other questions.

Quotes to use on the record:

"During Mr. Wright's tenure as Dow's in-house counsel, the company ultimately reached agreement with EPA to use CERCLA/Superfund authority to clean up the rivers and bay. Mr. Wright's work was critical in reaching these agreements with EPA that accelerated work at the site." – Jeff Kelley, EPA Region 5, Office of External Communications

Leverett Nelson (current Regional Counsel):

"Peter was notable for his professionalism, candor, cordiality and grace under pressure, and also had a practical sense of what needed to be done in order to successfully conclude the negotiations."

On Denney allegations:

"I don't recall a correlation between that event and the course of negotiations."

"I don't remember that there was any particular impact on the remedial work at the site. There was other data that was available that was reliable."

"If we had to throw out some samples, it probably had zero impact on our assessment of environmental conditions at the site."

Additional quote from Leveret Nelson: **"EPA Region 5 has been working for many years on Superfund and other hazardous waste cleanups at Dow sites in Michigan, including the Midland plant and the Tittabawassee River. In my experience, the working relationship between EPA's legal team and Dow's legal team headed by Mr. Wright has been a positive one – professional, cordial and largely productive."**

Robert Kaplan (former Regional Counsel) (current Special Policy Advisor)

"Through it all, I could talk to Peter one on one about positions or issues, and I found him to be professional in all his dealings."

"In negotiations especially in high profile matters, sometimes the dynamics of the negotiators matter. What could have been even a more high pressure controversial superheated negotiation came to fruition because of the team dynamics. And that had a lot to do with Peter Wright."

On earlier EPA concerns over Dow actions: **"The record speaks for itself. The EPA took action to take it from state lead to Superfund. And from 2007 or so we decided to take a different path."**

On background from Robert Kaplan: **There is nothing about "lead negotiator." I hope the reporter used what we said about Peter's role. He was not Dow's overall lead. He was their lead LEGAL counsel. That's important in characterizing the role appropriately.**

Background on Dioxin from the EPA Office of Research and Development and Office of Land and Emergency Management:

The study cited in Mr. Wright's 13-year old article was the basis for EPA's health effects study on dioxin. Since then EPA finalized its non-cancer science assessment for dioxin in 2012. The findings showed that generally, over a person's lifetime, current exposure to dioxins does not pose a significant health risk.

Over the past several years EPA has worked to reduce emissions from all of the major industrial sources of dioxins. As a result of efforts by EPA, state governments and industry, known and measurable air emissions of dioxins in the United States have been reduced by 90 percent from 1987 levels. The largest remaining source of dioxin emissions is backyard burning of household trash. Most Americans have low-level exposure to dioxins. The non-cancer health assessment for dioxin could be considered in a range of agency activities, from establishing cleanup levels at Superfund sites, to reviewing the dioxin drinking water standard as part of EPA's regularly scheduled review process, to evaluating whether additional Clean Air Act limits on dioxin emissions are warranted.

Background on Peter Wright:

Peter Wright was born in Connecticut and raised in Los Angeles, CA. Before Dow, he worked as an attorney at Bryan Cave LLP and the Monsanto Company. He began his legal career with the environmental practice group of Baker & Daniels (now Fagre Baker and Daniels).

Background on Peter Wright's work:

The Dow Chemical Company's Midland Plant is a manufacturing facility that began operations in 1897. The facility is located on 1,900 acres abutting the Tittabawassee River. The past disposal of various chemicals at the facility resulted in high levels of dioxins and furans in the Tittabawassee River and downstream in the Saginaw River and Bay, as well as on the facility and in the City of Midland.

Pursuant to a Resource Conservation and Recovery Act (RCRA) permit issued by the Michigan Department of Environmental Quality (MDEQ), Dow had been conducting corrective actions, including extensive facility investigations and interim response activities to address the dioxins and furans at the Midland Plant and off-site. As the MDEQ-supervised RCRA corrective action remedial investigations progressed, EPA and MDEQ recognized that investigations and early actions to protect public health would benefit from federal resources, in addition to MDEQ's RCRA resources. After evaluating the facility, EPA and MDEQ agreed that CERCLA authority could be used to complete off-site cleanup work on the river systems and floodplains, while the RCRA corrective action program focused on off-site corrective action in the City of Midland and on-site corrective action for the Midland Plant site. Splitting the lead agency responsibilities allowed more work to occur concurrently.

Between 2007 and 2009, Dow conducted six time-critical removals under CERCLA authority, with EPA oversight. Mr. Peter Wright was Dow's lead counsel in the negotiation of the six settlements under which these cleanups were performed. EPA, MDEQ, and Dow entered into a settlement in 2010 for Remedial Investigation, Feasibility Study and/or

Engineering Evaluation and Cost Analysis, and Response Design work (2010 ASAOC) which has provided the basis for further settlements to conduct non-time critical removal actions in the Tittabawassee River and its floodplain. Mr. Wright was Dow's lead counsel in the negotiation of the 2010 ASAOC. Between 2010 and 2017, EPA and Dow entered into seven separate CERCLA settlements under which Dow performed non-time-critical CERCLA removal actions at the site. Mr. Wright was Dow's lead counsel in the negotiation of the seven settlements under which these cleanups were performed. During this same timeframe, off-site cleanup was completed in the City of Midland under the RCRA permit and Mr. Wright was also legal counsel for this work.

More information about the CERCLA cleanup at the Tittabawassee River, Saginaw River & Bay Site is available on EPA's website at https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0503250.

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/20/2018 4:42:46 PM
To: Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]
CC: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: RE: EPW Hearing August 1

Troy

I would be glad to participate in the mini-murder board. I will review my hearing and the dialogue with Senator Booker on RMP.

Have a great weekend.

Peter

From: Lyons, Troy
Sent: Friday, July 20, 2018 12:16 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Molina, Michael <molina.michael@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Block, Molly <block.molly@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Morgan, Ashley <morgan.ashley@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Hanson, Paige (Catherine) <hanson.catherine@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Wright, Peter <wright.peter@epa.gov>; McIntosh, William <mcintosh.william@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Darwin, Henry <darwin.henry@epa.gov>; Chancellor, Erin <chancellor.erin@epa.gov>
Subject: RE: EPW Hearing August 1
Importance: High

Colleagues—we have discussed the format for briefing the Administrator ahead of his August 1st EPW hearing. As I mentioned, OCIR staffers are currently working with their counterparts in your respective program offices to update and develop fact sheets for the issues listed below.

One Pagers: You program offices will be directed to break the briefing material into three put the briefing material in the following format:

- **Background**—please provide a brief background on the issue
- **Key Points**—what are key points the Administrator needs to know on the issue (contentious issue, upcoming actions, impacted parties, is this a parochial issue, history with specific Member, etc)
- **Talking Points**—these need to be clear and specific. Also the points should be worded so he can read directly from the page, if needed

Briefing: To ensure you are prepared for the briefing format will be divided in two portions 1) Briefing 2) Q&A.

Format: Each program office will be given a specific time slot (TBD) to brief the Administrator on the issues listed below. The Administrator would like the first ¾ of the prep time to be dedicated to program staff briefing him on the issues. The final ¼ of the time slot will be a Q&A. Each program office should prepare about 20-25 minutes of questions to quiz the Administrator.

Dates:

- Thursday, July 26: Program Office Briefings
- Friday, July 27 Program Office Briefings
- Monday, July 30 or Tuesday, July 31: Mini-Murder Board

Mini-Murder Board: The last piece of the preparation will be a mini-murder board. It will not be as formal as our nominee murder boards, but it will be two hours of questioning the Administrator on topics we expect to be raised on August 1st. This will likely occur on July 31. Please let us know if you would like to participate.

This is a great team effort to get the Administrator ready for his first hearing. Thank you for your contributions—especially with such quick turnaround.

Many thanks,

Troy

From: Lyons, Troy
Sent: Thursday, July 19, 2018 2:42 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Molina, Michael <molina.michael@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Block, Molly <block.molly@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Morgan, Ashley <morgan.ashley@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Hanson, Paige (Catherine) <hanson.catherine@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Wright, Peter <wright.peter@epa.gov>; McIntosh, William <mcintosh.william@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Darwin, Henry <darwin.henry@epa.gov>; Chancellor, Erin <chancellor.erin@epa.gov>
Subject: RE: EPW Hearing August 1
Importance: High

As I mentioned yesterday—OCIR's career liaisons have reached out to their counterparts in your respective program offices for updated fact sheets. For your reference, you will find a list of topics for which we will need to brief the Administrator. You will receive an invitation from scheduling once we lock in times to brief Andrew.

Please let us know if you have any questions or wish to discuss further.

Hearing Prep—Topics
EPW
August 1, 2018

OAR

- CAFE—Carper
- California Waiver—Carper
- Clean Power Plan—Carper, Whitehouse, Merkley, Gillibrand, Booker
- Cross State Air Pollution—Carper
- Glider Kits—Carper
- New Source Review—Carper
- Once in, Always In—Carper
- Kigali Amendment/Hydrofluorocarbons (HFC's)—Carper
- RFS (Pro)—Ernst, Moran, Rounds, Duckworth
- Small Refinery Exemptions—Ernst, Fischer
- Uranium Tailings—Barrasso

OARM

- Chesapeake Bay Office—Cardin, Van Hollen
- Kansas City Lab--Moran
- Region V Office—Duckworth
- Workforce Issues

OCFO

- Budget Overview

OCSPP

- Chlorpyrifos—Carper
- Formaldehyde—Markey
- Methylene Chloride—Markey
- TSCA Implementation—Carper, Markey
- TSCA Animal Testing Protections—Booker
- Worker Protection Standards—Booker
- PRIA
- Dicamba—Rounds

OECA

- Enforcement Priorities
- Chicago Manganese—Duckworth

OGC

- Sue & Settle

OLEM

- Coal Ash—Markey
- Brownfields
- Lead Exposure at Superfund Sites
- Risk Management Plan—Cardin
    - Chlorosulfonic Acid: Solvay Industries 2017 Release, Baltimore
- Superfund Program
    - Passaic River—Booker
    - Lower Hackensack River—Booker
    - American Cyanamid Company—Booker ***
    - Berry's Creek—Booker ***
    - Delaware Sand & Gravel—Carper ***

- Des Moines TCE—Ernst ***
- Hudson River Super Fund Site—Gillibrand
- Hoosick Falls—Gilliland
- Portland Harbor—Merkley ***
- Centredale Manor Restoration Projects—Whitehouse ***
- Mississippi Phosphate—Wicker ***

*** Administrator's Emphasis List

OP

- Environmental Justice—Booker

OW

- WOTUS—Carper, Sanders, Whitehouse, Merkley, Booker, Markey, Cardin, Gillibrand, Duckworth
- Lead
  - Chicago Drinking Water—Duckworth
- Chesapeake Bay Funding—Cardin, Van Hollen
- Great Lakes Funding—Duckworth
- Pebble Mine—Carper
- PFAS—Gillibrand
- ASTDR Study on PFAS—Gillibrand (Westhampton Beach, Air National Guard Base),
- WIFIA—Boozman
- Small Drinking Water Systems—Wicker

ORD

- Science Advisory Boards—Carper, Whitehouse
- Science Transparency—Merkley
- IRIS
- Vieques, Puerto Rico—Wicker

From: Lyons, Troy
Sent: Wednesday, July 18, 2018 2:48 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Molina, Michael <molina.michael@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Block, Molly <block.molly@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Morgan, Ashley <morgan.ashley@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Hanson, Paige (Catherine) <hanson.catherine@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
Subject: RE: EPW Hearing August 1

My apologies—adding Brittany

From: Jackson, Ryan
Sent: Wednesday, July 18, 2018 2:40 PM
To: Lyons, Troy <lyons.troy@epa.gov>
Cc: Molina, Michael <molina.michael@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Block,

Molly <block.molly@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Morgan, Ashley <morgan.ashley@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Hanson, Paige (Catherine) <hanson.catherine@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>
Subject: Re: EPW Hearing August 1

We also need to involve our career program office leads in these prep sessions as well. Certainly Charlotte and Barry in particular and I'd of course defer to the political heads of other program offices to determine briefer attendees.

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

On Jul 18, 2018, at 2:21 PM, Lyons, Troy <lyons.troy@epa.gov> wrote:

> Please hold close--the Administrator has confirmed August 1st for his first hearing before EPW. This is a quick turnaround, so we will need everyone's assistance in preparing the Administrator.
>
> **Chris Beach**—could you please work on both written and oral testimony outlining the Administrator's priorities for the agency? Tony and Christian can provide any assistance you may need.
>
> **Program Offices**—OCIR has reached out to the program offices today to update the one pagers by next Wednesday, July 25. This will give a full weekend for the Administrator to review the material. We will schedule hearing prep the week of July 30th.
>
> _____
>
> **Troy M. Lyons**
> Associate Administrator
> Office of Congressional & Intergovernmental Relations
> U.S. Environmental Protection Agency
> 202-309-2490 (cell)

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/20/2018 4:40:52 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]
Subject: FW: EPW Hearing August 1

Importance: High

Barry

This will let you know about what I understand to be changed process for briefing the Administrator in advance of a hearing.

Peter

From: Lyons, Troy
Sent: Friday, July 20, 2018 12:16 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Molina, Michael <molina.michael@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Block, Molly <block.molly@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Morgan, Ashley <morgan.ashley@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Hanson, Paige (Catherine) <hanson.catherine@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Wright, Peter <wright.peter@epa.gov>; McIntosh, William <mcintosh.william@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Darwin, Henry <darwin.henry@epa.gov>; Chancellor, Erin <chancellor.erin@epa.gov>
Subject: RE: EPW Hearing August 1
Importance: High

Colleagues—we have discussed the format for briefing the Administrator ahead of his August 1st EPW hearing. As I mentioned, OCIR staffers are currently working with their counterparts in your respective program offices to update and develop fact sheets for the issues listed below.

One Pagers: You program offices will be directed to break the briefing material into three put the briefing material in the following format:

- **Background**—please provide a brief background on the issue
- **Key Points**—what are key points the Administrator needs to know on the issue (contentious issue, upcoming actions, impacted parties, is this a parochial issue, history with specific Member, etc)
- **Talking Points**—these need to be clear and specific. Also the points should be worded so he can read directly from the page, if needed

Briefing: To ensure you are prepared for the briefing format will be divided in two portions 1) Briefing 2) Q&A.

Format: Each program office will be given a specific time slot (TBD) to brief the Administrator on the issues listed below. The Administrator would like the first ¾ of the prep time to be dedicated to program staff briefing him on the issues. The final ¼ of the time slot will be a Q&A. Each program office should prepare about 20-25 minutes of questions to quiz the Administrator.

Dates:

- Thursday, July 26: Program Office Briefings
- Friday, July 27 Program Office Briefings
- Monday, July 30 or Tuesday, July 31: Mini-Murder Board

Mini-Murder Board: The last piece of the preparation will be a mini-murder board. It will not be as formal as our nominee murder boards, but it will be two hours of questioning the Administrator on topics we expect to be raised on August 1st. This will likely occur on July 31. Please let us know if you would like to participate.

This is a great team effort to get the Administrator ready for his first hearing. Thank you for your contributions—especially with such quick turnaround.

Many thanks,

Troy

From: Lyons, Troy
Sent: Thursday, July 19, 2018 2:42 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Molina, Michael <molina.michael@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Block, Molly <block.molly@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Morgan, Ashley <morgan.ashley@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Hanson, Paige (Catherine) <hanson.catherine@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Wright, Peter <wright.peter@epa.gov>; McIntosh, William <mcintosh.william@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Darwin, Henry <darwin.henry@epa.gov>; Chancellor, Erin <chancellor.erin@epa.gov>
Subject: RE: EPW Hearing August 1
Importance: High

As I mentioned yesterday—OCIR's career liaisons have reached out to their counterparts in your respective program offices for updated fact sheets. For your reference, you will find a list of topics for which we will need to brief the Administrator. You will receive an invitation from scheduling once we lock in times to brief Andrew.

Please let us know if you have any questions or wish to discuss further.

Hearing Prep—Topics
EPW
August 1, 2018

OAR

- CAFE—Carper
- California Waiver—Carper
- Clean Power Plan—Carper, Whitehouse, Merkley, Gillibrand, Booker
- Cross State Air Pollution—Carper
- Glider Kits—Carper
- New Source Review—Carper
- Once in, Always In—Carper
- Kigali Amendment/Hydrofluorocarbons (HFC's)—Carper
- RFS (Pro)—Ernst, Moran, Rounds, Duckworth
- Small Refinery Exemptions—Ernst, Fischer
- Uranium Tailings—Barrasso

OARM

- Chesapeake Bay Office—Cardin, Van Hollen
- Kansas City Lab--Moran
- Region V Office—Duckworth
- Workforce Issues

OCFO

- Budget Overview

OCSPP

- Chlorpyrifos—Carper
- Formaldehyde—Markey
- Methylene Chloride—Markey
- TSCA Implementation—Carper, Markey
- TSCA Animal Testing Protections—Booker
- Worker Protection Standards—Booker
- PRIA
- Dicamba—Rounds

OECA

- Enforcement Priorities
- Chicago Manganese—Duckworth

OGC

- Sue & Settle

OLEM

- Coal Ash—Markey
- Brownfields
- Lead Exposure at Superfund Sites
- Risk Management Plan—Cardin
    - Chlorosulfonic Acid: Solvay Industries 2017 Release, Baltimore
- Superfund Program
    - Passaic River—Booker
    - Lower Hackensack River—Booker
    - American Cyanamid Company—Booker ***
    - Berry's Creek—Booker ***
    - Delaware Sand & Gravel—Carper ***
    - Des Moines TCE—Ernst ***
    - Hudson River Super Fund Site—Gillibrand
    - Hoosick Falls—Gilliland

- Portland Harbor—Merkley ***
- Centredale Manor Restoration Projects—Whitehouse ***
- Mississippi Phosphate—Wicker ***

*** Administrator's Emphasis List

OP

- Environmental Justice—Booker

OW

- WOTUS—Carper, Sanders, Whitehouse, Merkley, Booker, Markey, Cardin, Gillibrand, Duckworth
- Lead
  - Chicago Drinking Water—Duckworth
- Chesapeake Bay Funding—Cardin, Van Hollen
- Great Lakes Funding—Duckworth
- Pebble Mine—Carper
- PFAS—Gillibrand
- ASTDR Study on PFAS—Gillibrand (Westhampton Beach, Air National Guard Base),
- WIFIA—Boozman
- Small Drinking Water Systems—Wicker

ORD

- Science Advisory Boards—Carper, Whitehouse
- Science Transparency—Merkley
- IRIS
- Vieques, Puerto Rico—Wicker

From: Lyons, Troy
Sent: Wednesday, July 18, 2018 2:48 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Molina, Michael <molina.michael@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Block, Molly <block.molly@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Morgan, Ashley <morgan.ashley@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Hanson, Paige (Catherine) <hanson.catherine@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
Subject: RE: EPW Hearing August 1

My apologies—adding Brittany

From: Jackson, Ryan
Sent: Wednesday, July 18, 2018 2:40 PM
To: Lyons, Troy <lyons.troy@epa.gov>
Cc: Molina, Michael <molina.michael@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Block, Molly <block.molly@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Morgan, Ashley <morgan.ashley@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Yamada,

Richard (Yujiro) <yamada.richard@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Hanson, Paige (Catherine) <hanson.catherine@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>
Subject: Re: EPW Hearing August 1

We also need to involve our career program office leads in these prep sessions as well. Certainly Charlotte and Barry in particular and I'd of course defer to the political heads of other program offices to determine briefer attendees.

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

On Jul 18, 2018, at 2:21 PM, Lyons, Troy <lyons.troy@epa.gov> wrote:

> Please hold close--the Administrator has confirmed August 1st for his first hearing before EPW. This is a quick turnaround, so we will need everyone's assistance in preparing the Administrator.
>
> **Chris Beach**—could you please work on both written and oral testimony outlining the Administrator's priorities for the agency? Tony and Christian can provide any assistance you may need.
>
> **Program Offices**—OCIR has reached out to the program offices today to update the one pagers by next Wednesday, July 25. This will give a full weekend for the Administrator to review the material. We will schedule hearing prep the week of July 30th.
>
> _____
>
> **Troy M. Lyons**
> Associate Administrator
> Office of Congressional & Intergovernmental Relations
> U.S. Environmental Protection Agency
> 202-309-2490 (cell)

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 8/3/2018 10:19:28 AM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]
CC: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: Re: Deliberative Process / Ex. 5

Barry and Steven

Thank you for your comments. I will have the changes made and the document cleaned up. I will be speaking within Kathleen today about the related recycling summit being developed and the engagement of NGOs, including community groups.

Peter

Sent from my iPhone

On Aug 2, 2018, at 11:38 PM, Breen, Barry <Breen.Barry@epa.gov> wrote:

> These look very good.
>
> Deliberative Process / Ex. 5
>
> On Aug 2, 2018, at 12:15 PM, Wright, Peter <wright.peter@epa.gov> wrote:
>
> Barry and Steve
>
> Deliberative Process / Ex. 5
>
> I appreciate that you are both out of the office and I would be glad to have the text of the Word document placed into an email so you would not have to open the attachments. Each is about a page and a half.

Your comments on substance and form are appreciated.

Peter

Deliberative Process / Ex. 5

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/13/2018 10:58:22 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: RE: FUDS Background info

Barry and Steven

Deliberative Process / Ex. 5

Regards,

Peter

-----Original Message-----
From: Jackson, Ryan
Sent: Friday, July 13, 2018 3:43 PM
To: Wright, Peter <wright.peter@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Subject: RE: FUDS Background info

That would be perfect. I'm looking forward to that. Thank you.

-----Original Message-----
From: Wright, Peter
Sent: Friday, July 13, 2018 2:14 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Subject: RE: FUDS Background info

Ryan

We have reviewed the material provided by DOD and consulted with colleagues in FFRRO and OBLR. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Let us know when you think a briefing would be timely.

Peter

-----Original Message-----
From: Jackson, Ryan
Sent: Wednesday, July 11, 2018 4:29 PM
To: Wright, Peter <wright.peter@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Subject: FW: FUDS Background info

Gentlemen --

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks

Ryan.

-----Original Message-----
From: Niemeyer, Lucian L II HON OSD OUSD ATL (US) [mailto:lucian.l.niemeyer.civ@mail.mil]
Sent: Tuesday, July 10, 2018 4:54 PM
To: Wheeler, Andrew <wheeler.andrew@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: FUDS Background info

Andrew: Thanks for the call and follow-up. Here is some background information for your staff. We would

Deliberative Process / Ex. 5

USACE website with overview https://www.usace.army.mil/Missions/Environmental/Formerly-Used-Defense-Sites/

I wrote an article on the topic last year. https://www.cato.org/publications/commentary/turning-former-military-bases-economic-development

Deliberative Process / Ex. 5

Congratulations again.

Respectfully,

Lucian Niemeyer, ASD (EIE)
Phone: Personal Phone / Ex. 6
Cell:

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/27/2018 6:18:24 PM
To: Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]
Subject: RE: Dioxin response

Jackie

Thank you for your efforts to address this during an already hectic day.

Peter

From: Harwood, Jackie
Sent: Friday, July 27, 2018 2:16 PM
To: Wright, Peter <wright.peter@epa.gov>
Subject: FW: Dioxin response

Hi Peter,

I meant to cc: you on this. Let me know if you have any questions.

Thanks.
Jackie

From: Grantham, Nancy
Sent: Friday, July 27, 2018 1:09 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Colip, Matthew <colip.matthew@epa.gov>; Bussard, David <Bussard.David@epa.gov>
Subject: RE: Dioxin response

Thanks much

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

From: Harwood, Jackie
Sent: Friday, July 27, 2018 12:57 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Colip, Matthew <colip.matthew@epa.gov>; Bussard, David <Bussard.David@epa.gov>
Subject: FW: Dioxin response

Hi Nancy,

Here's what Barry Breen suggested after reviewing Dave's email below:

Deliberative Process / Ex. 5

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Grantham, Nancy
Sent: Friday, July 27, 2018 12:44 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>
Subject: FW: Dixoin response

Thanks . .are you going to send me a revised statement?

Thanks ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

From: Bussard, David
Sent: Friday, July 27, 2018 12:05 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Woolford, James <Woolford.James@epa.gov>; Bahadori, Tina <Bahadori.Tina@epa.gov>
Subject: Dixoin response

Jackie and Nancy,

Deliberative Process / Ex. 5

David A. Bussard

Director, Washington Division, National Center for Environmental Assessment (NCEA)
Office of Research and Development (ORD), USEPA
Tel: 202-564-4113; office RRB Room 71254

From: Harwood, Jackie
Sent: Friday, July 27, 2018 11:31 AM
To: Bussard, David <Bussard.David@epa.gov>
Subject: RE: calling you two about this now thanks ng

Look at the very last paragraph, that might help.

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Bussard, David
Sent: Friday, July 27, 2018 11:30 AM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: RE: calling you two about this now thanks ng

Sure. Let me take a minute more to see the structure of the Wright article.

From: Harwood, Jackie
Sent: Friday, July 27, 2018 11:29 AM
To: Bussard, David <Bussard.David@epa.gov>
Subject: RE: calling you two about this now thanks ng

Can you call me again? Might be easier . . .

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Bussard, David
Sent: Friday, July 27, 2018 11:28 AM

To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: RE: calling you two about this now thanks ng

Do you know what OLEM cited as support for the Superfund cleanup standards?

From: Harwood, Jackie
Sent: Friday, July 27, 2018 11:16 AM
To: Bussard, David <Bussard.David@epa.gov>
Subject: FW: calling you two about this now thanks ng

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Grantham, Nancy
Sent: Friday, July 27, 2018 10:10 AM
To: Colip, Matthew <colip.matthew@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: calling you two about this now thanks ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

From: Hubbard, Carolyn
Sent: Friday, July 27, 2018 10:08 AM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: RE: does this look okay? want to share with olem next thanks ng

Deliberative Process / Ex. 5

Carolyn Hubbard
Communications Director
EPA Office of Research and Development
202-564-2189
202-379-6744

From: Grantham, Nancy
Sent: Friday, July 27, 2018 10:03 AM
To: Hubbard, Carolyn <Hubbard.Carolyn@epa.gov>

Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: does this look okay? want to share with olem next thanks ng

Deliberative Process / Ex. 5

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

Message

From: Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]
Sent: 7/24/2018 9:32:26 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]
Subject: FW: Draft FUDs Scenarios
Attachments: FUDs Scenarios V2.docx

See below from OBLR…
Nick

Nicholas J. Hilosky
Special Assistant
Office of Land and Emergency Management
US Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, DC 20460
ph: 202-566-1942; fax: 202-566-0207
mobile: 202-368-0724

From: Overmeyer, Patricia
Sent: Tuesday, July 24, 2018 4:22 PM
To: Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Cc: Lloyd, David <Lloyd.DavidR@epa.gov>; Lentz, Rachel <Lentz.Rachel@epa.gov>; Leonard, Paul <leonard.paul@epa.gov>; Gervais, Gregory <Gervais.Gregory@epa.gov>
Subject: Draft FUDs Scenarios

Nick:

As follow up to our meeting with Barry, Peter, and Steven last week, the team has pulled together descriptions

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 Could you please share the attached with Barry, Peter and Steven? Then please let us know what they may need in the form of next steps.

Thanks,
Patricia

Patricia Overmeyer
EPA Office of Brownfields and Land Revitalization
202-566-2774

Message

From: Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]
Sent: 7/11/2018 8:29:25 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: FW: FUDS Background info
Attachments: FUDS 06052018_v1.docx; TAB D - ESOH Pilot Program for FUDS Cleanups.docx

Gentlemen --

Deliberative Process / Ex. 5

Thanks

Ryan.

-----Original Message-----
From: Niemeyer, Lucian L II HON OSD OUSD ATL (US) [mailto:lucian.l.niemeyer.civ@mail.mil]
Sent: Tuesday, July 10, 2018 4:54 PM
To: Wheeler, Andrew <wheeler.andrew@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: FUDS Background info

Andrew: Thanks for the call and follow-up. Here is some background information for your staff. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

USACE website with overview https://www.usace.army.mil/Missions/Environmental/Formerly-Used-Defense-Sites/

I wrote an article on the topic last year. https://www.cato.org/publications/commentary/turning-former-military-bases-economic-development

Deliberative Process / Ex. 5

Congratulations again.

Respectfully,

Lucian Niemeyer, ASD (EIE)
Phone: Personal Phone / Ex. 6
Cell:

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/13/2018 6:13:33 PM
To: Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: RE: FUDS Background info

Ryan

We have reviewed the material provided by DOD and consulted with colleagues in FFRRO and OBLR. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Let us know when you think a briefing would be timely.

Peter

-----Original Message-----
From: Jackson, Ryan
Sent: Wednesday, July 11, 2018 4:29 PM
To: Wright, Peter <wright.peter@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Subject: FW: FUDS Background info

Gentlemen --

Deliberative Process / Ex. 5

Thanks

Ryan.

-----Original Message-----
From: Niemeyer, Lucian L II HON OSD OUSD ATL (US) [mailto:lucian.l.niemeyer.civ@mail.mil]
Sent: Tuesday, July 10, 2018 4:54 PM
To: Wheeler, Andrew <wheeler.andrew@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: FUDS Background info

Andrew: Thanks for the call and follow-up. Here is some background information for your staff. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

USACE website with overview https://www.usace.army.mil/Missions/Environmental/Formerly-Used-Defense-Sites/

I wrote an article on the topic last year. https://www.cato.org/publications/commentary/turning-former-military-bases-economic-development

Deliberative Process / Ex. 5

Congratulations again.

Respectfully,

Lucian Niemeyer, ASD (EIE)
Phone:
Cell: Personal Phone / Ex. 6

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 8/2/2018 9:22:11 PM
To: Lloyd, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3deede75db8e44a790b2f73debf00e12-Lloyd, David]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Kackar, Adhir [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a4a500388f094cf6869b652e5dd07a3f-AKackar]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Dalbey, Matthew [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=163a0950019048d598e22c167ef6aa33-Dalbey, Matthew]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]
Subject: RE: Presentation describing OBLR's Land Revitalization Tools

David

Thank you for sharing these materials. They are very well organized and really showcase the great work the OLBR does across the country.

Peter

From: Lloyd, David
Sent: Thursday, August 2, 2018 2:08 PM
To: OLEM OBLR <OLEMOBLR@epa.gov>; OLEM Brownfields Leadership Forum <OLEM_Brownfields_Leadership_Forum@epa.gov>; OLEM SF Reg DDs <OLEMSFRegDDs@epa.gov>; OLEM OD Deputies <OLEMODDeputies@epa.gov>; Dalbey, Matthew <Dalbey.Matthew@epa.gov>; Kackar, Adhir <Kackar.Adhir@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>
Subject: Presentation describing OBLR's Land Revitalization Tools

Colleagues, FYI, attached is a presentation that describes OBLR's Land Revitalization Tools. These tools were developed by our HQ Team working with the Regional and Program Offices' Land Revitalization Coordinators. If you have questions, please contact Aimee Storm at 202-566-0633.

David R. Lloyd, Director
Office of Brownfields and Land Revitalization
U.S. Environmental Protection Agency
Washington, DC
202-566-2731

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 8/9/2018 10:50:21 PM
To: Colip, Matthew [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cb142ab3fb174f0ea41a87668c7fb641-Mcolip]
CC: Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Simon, Nigel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2f1084d32324dcd965683a9d2f09764-Simon, Nigel]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]; Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]
Subject: RE: primary OLEM webpages for reference

Matt

Thank you. This will be very useful to me.

Peter

From: Colip, Matthew
Sent: Thursday, August 9, 2018 6:19 PM
To: Wright, Peter <wright.peter@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Simon, Nigel <Simon.Nigel@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Manges, Ellen <Manges.Ellen@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: primary OLEM webpages for reference

Hi Peter,

Following-up to your request during the communications meeting on Monday for a list of primary OLEM webpages, below is an initial list sorted by office/topic area. I'll send additional webpages going forward for reference.

Office of Superfund Remediation and Technology Innovation (OSRTI)

Superfund - https://www.epa.gov/superfund

Federal Facilities Restoration and Reuse Office (FFRRO)

Cleanups at Federal Facilities - https://www.epa.gov/fedfac

Office of Brownfields and Land Revitalization (OBLR)

Brownfields - https://www.epa.gov/brownfields

Office of Resource Conservation and Recovery (ORCR)

RCRA - https://www.epa.gov/rcra

State Authorization Under RCRA - https://www.epa.gov/rcra/state-authorization-under-resource-conservation-and-recovery-act-rcra

Hazardous Waste Generators - https://www.epa.gov/hwgenerators

Sustainable Materials Management - https://www.epa.gov/smm

Office of Emergency Management (OEM)

Emergency Response - https://www.epa.gov/emergency-response

Emergency Planning and Community Right-to-Know Act (EPCRA) - https://www.epa.gov/epcra

Risk Management Plan - https://www.epa.gov/rmp

Office of Underground Storage Tanks (OUST)

Underground Storage Tanks - https://www.epa.gov/ust

Office of Communications, Partnerships, and Analysis (OCPA)

Cleaning-up, Protecting, and Preserving Tribal Lands - https://www.epa.gov/tribal-lands

Re-Powering America's Land Initiative - https://www.epa.gov/re-powering

Agency-wide topic webpages

Per- and Polyfluoroalkyl Substances (PFAS)- https://www.epa.gov/pfas

Lead - https://www.epa.gov/lead

Please let me know if you have any questions.

Thanks,
Matt

Matthew Colip
Office of Communications, Partnerships and Analysis
Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
Office: 202-566-2641
Mobile: 202-597-1887

Follow us on Twitter @EPALand

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/25/2018 1:01:00 PM
To: Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]
CC: Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: RE: 2nd Email: FOR YOUR REVIEW: Additional Fact Sheets & Wheeler Briefing Questions
Attachments: OEM.Chem Facility RMP.v2.docx

Jackie

Please find my comments on the RMP writeup.

Peter

From: Harwood, Jackie
Sent: Tuesday, July 24, 2018 10:36 PM
To: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>; Manges, Ellen <Manges.Ellen@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: 2nd Email: FOR YOUR REVIEW: Additional Fact Sheets & Wheeler Briefing Questions
Importance: High

Hi Barry, Steven, and Peter,

Attached for your review are the additional Wheeler briefing materials. **Fact sheets are due to OCIR by noon Weds. If you don't have time to review all of them, I recommend focusing on the five OLEM Tier 2 fact sheets only**:

1. **Superfund site fact sheets for Wheeler's briefing, reviewed by OSRTI and Jim Woolford:**

Ex. 5 Deliberative Process (DP)

2. **2nd Tier Fact Sheets – NOTE: These will go in Wheeler's background book. OCIR shortened OLEM's original tier 2 list because they have too many fact sheets.**
    - Hurricane preparedness
    - Hot Topics/Issues at Fed Facility Sites
    - UST Compliance deadline
    - Addressing Extreme Weather at Superfund Sites
    - Role of States in SF Program
    - Superfund Task Force (Not attached, providing press release instead of fact sheet)

3. **Questions (with answers) that OLEM program offices provided for you to use at Wheeler briefing.**

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Harwood, Jackie
Sent: Tuesday, July 24, 2018 5:35 PM
To: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>; Manges, Ellen <Manges.Ellen@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: FOR YOUR REVIEW: Initial Fact Sheets for Wheeler's briefing
Importance: High

Hi Barry, Steven, and Peter,

This is the first of several emails I'll be sending you with materials for Acting Administrator Wheeler's SEPW hearing. I apologize for sending the materials piecemeal, but some of them are taking longer to finalize than others and I wanted to give you an opportunity to start reviewing the fact sheets. Please let me know if you have any questions or concerns. Thanks.

Attached for your review are draft fact sheets on the topics that will be covered at the pre-brief tomorrow at 11:00 and OLEM's Wheeler briefing later this week. They have been approved by the ODs, and slightly edited/shortened by both Carolyn Levine and me. They include:

- Coal Ash – Steven (Barnes as backup)
- Brownfields -- Peter
- Risk Management Plan – Peter
- NEW Suggestion from OCIR: CERCLA/EPCRA Reporting & Recent Vacatur Rule
- Lead Exposure at Superfund Sites – Jim Woolford

The second and third emails I'll be sending you later tonight or tomorrow morning will include:

1. Program offices' suggested Q&As for you to ask Wheeler in the second part of the OLEM briefing.
2. Fact sheets on the Superfund Program Sites below.

Ex. 5 Deliberative Process (DP)

NOTE: Peter will not participate in these site discussions:

-
-
- Ex. 5 Deliberative Process (DP)
-
-

3. Second tier fact sheets. They will include the following topics:
   - SPCC
   - Hurricane preparedness
   - Spill Prevention Rule
   - 108(b)
   - PFAS at Fed Facility Sites
   - Hot Topics/Issues at Fed Facility Sites
   - Compliance deadline
   - Abandoned Minds and Mineral Processing Sites
   - Addressing Extreme Weather at Superfund Sites
   - Superfund Remedial Cleanup Program
   - Superfund Special Accounts
   - Superfund Task Force
   - Role of States in SF Program
   - Hazard Ranking System Revision

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/27/2018 5:32:40 PM
To: Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]
Subject: Secondary Topic Talking Points
Attachments: OLEM Talking Points #2.docx

Jackie

Attached are the draft talking points for the secondary topics. I realize I need to add something to the RMP and I will do that separately.

Thank you.

Peter

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/25/2018 12:37:12 PM
To: Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]
CC: Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]
Subject: RE: 2nd Email: FOR YOUR REVIEW: Additional Fact Sheets & Wheeler Briefing Questions

Jackie

Thank you and your team for working on these so late to help meet the challenging deadline. I will have comments on RMP, I think CCR needs a bit and a couple of minor comments on Brownfields. The Farm write up seems fine. What others should I focus on this morning?

Peter

From: Harwood, Jackie
Sent: Tuesday, July 24, 2018 10:36 PM
To: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>; Manges, Ellen <Manges.Ellen@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: 2nd Email: FOR YOUR REVIEW: Additional Fact Sheets & Wheeler Briefing Questions
Importance: High

Hi Barry, Steven, and Peter,

Attached for your review are the additional Wheeler briefing materials. **Fact sheets are due to OCIR by noon Weds. If you don't have time to review all of them, I recommend focusing on the five OLEM Tier 2 fact sheets only**:

1. **Superfund site fact sheets for Wheeler's briefing, reviewed by OSRTI and Jim Woolford:**
   - Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

2. **2nd Tier Fact Sheets – NOTE: These will go in Wheeler's background book. OCIR shortened OLEM's original tier 2 list because they have too many fact sheets.**
    - Hurricane preparedness
    - Hot Topics/Issues at Fed Facility Sites
    - UST Compliance deadline
    - Addressing Extreme Weather at Superfund Sites
    - Role of States in SF Program
    - Superfund Task Force (Not attached, providing press release instead of fact sheet)

3. **Questions (with answers) that OLEM program offices provided for you to use at Wheeler briefing.**

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Harwood, Jackie
Sent: Tuesday, July 24, 2018 5:35 PM
To: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>; Manges, Ellen <Manges.Ellen@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: FOR YOUR REVIEW: Initial Fact Sheets for Wheeler's briefing
Importance: High

Hi Barry, Steven, and Peter,

This is the first of several emails I'll be sending you with materials for Acting Administrator Wheeler's SEPW hearing. I apologize for sending the materials piecemeal, but some of them are taking longer to finalize than others and I wanted to give you an opportunity to start reviewing the fact sheets. Please let me know if you have any questions or concerns. Thanks.

Attached for your review are draft fact sheets on the topics that will be covered at the pre-brief tomorrow at 11:00 and OLEM's Wheeler briefing later this week. They have been approved by the ODs, and slightly edited/shortened by both Carolyn Levine and me. They include:

- Coal Ash – Steven (Barnes as backup)
- Brownfields -- Peter
- Risk Management Plan – Peter
- NEW Suggestion from OCIR: CERCLA/EPCRA Reporting & Recent Vacatur Rule
- Lead Exposure at Superfund Sites – Jim Woolford

The second and third emails I'll be sending you later tonight or tomorrow morning will include:

1. Program offices' suggested Q&As for you to ask Wheeler in the second part of the OLEM briefing.
2. Fact sheets on the Superfund Program Sites below.
    - Ex. 5 Deliberative Process (DP)

- Ex. 5 Deliberative Process (DP)

NOTE: Peter will not participate in these site discussions:

- Ex. 5 Deliberative Process (DP)

3. Second tier fact sheets. They will include the following topics:
   - SPCC
   - Hurricane preparedness
   - Spill Prevention Rule
   - 108(b)
   - PFAS at Fed Facility Sites
   - Hot Topics/Issues at Fed Facility Sites
   - Compliance deadline
   - Abandoned Minds and Mineral Processing Sites
   - Addressing Extreme Weather at Superfund Sites
   - Superfund Remedial Cleanup Program
   - Superfund Special Accounts
   - Superfund Task Force
   - Role of States in SF Program
   - Hazard Ranking System Revision

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/25/2018 7:43:37 PM
To: Hewitt, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=41b19dd598d340bb8032923d902d4bd1-Hewitt, Jam]
Subject: RE: to confirm

Jim

Here is a link to the Science Advisory Board for the University of Michigan Dioxin Exposure Study https://sph.umich.edu/dioxin/scientific-advisory-board.html. Linda Birnbaum is at NIH/NIEHS birnbaumls@niehs.nih.gov. She and the other members of the Science Advisory Board did not work for the the University of Michigan.

Peter

From: Hewitt, James
Sent: Wednesday, July 25, 2018 3:31 PM
To: Wright, Peter <wright.peter@epa.gov>
Subject: to confirm

"We recommend reaching out Linda Beirmbuam of the University of Michigan who chaired the science advisory board for the study." ?

James Hewitt
Environmental Protection Agency
Press Secretary
(202) 578-6141

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/29/2018 10:40:05 PM
To: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: Re: RMP

Steven

Thank you,

Peter

Sent from my iPad

On Jul 29, 2018, at 5:53 PM, Cook, Steven <cook.steven@epa.gov> wrote:

Sent from my iPhone

Begin forwarded message:

From: "Cook, Steven" <cook.steven@epa.gov>
Date: July 29, 2018 at 5:51:20 PM EDT
To: adm15.arwheeler.email <adm15.arwheeler.email@epa.gov>
Cc: "Lyons, Troy" <lyons.troy@epa.gov>, "Jackson, Ryan" <jackson.ryan@epa.gov>
Subject: Re: RMP

I have confirmed that the inspection point should have been included in this rewrite. We will provide an updated RMP paper with this revision Monday morning.

Sent from my iPhone

On Jul 29, 2018, at 4:27 PM, adm15.arwheeler.email <adm15.arwheeler.email@epa.gov> wrote:

Deliberative Process / Ex. 5

Sent from my iPhone

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/20/2018 1:22:46 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]
CC: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: FW: EPW Hearing August 1
Attachments: 8-1-18 EPW Topics v1.docx

Importance: High

Barry

Here is the note with the list of topics for which the Administrator will need to be briefed.

Peter

From: Lyons, Troy
Sent: Thursday, July 19, 2018 2:42 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Molina, Michael <molina.michael@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Block, Molly <block.molly@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Morgan, Ashley <morgan.ashley@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Hanson, Paige (Catherine) <hanson.catherine@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Wright, Peter <wright.peter@epa.gov>; McIntosh, William <mcintosh.william@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Darwin, Henry <darwin.henry@epa.gov>; Chancellor, Erin <chancellor.erin@epa.gov>
Subject: RE: EPW Hearing August 1
Importance: High

As I mentioned yesterday—OCIR's career liaisons have reached out to their counterparts in your respective program offices for updated fact sheets. For your reference, you will find a list of topics for which we will need to brief the Administrator. You will receive an invitation from scheduling once we lock in times to brief Andrew.

Please let us know if you have any questions or wish to discuss further.

Hearing Prep—Topics
EPW
August 1, 2018

OAR

- CAFE—Carper
- California Waiver—Carper
- Clean Power Plan—Carper, Whitehouse, Merkley, Gillibrand, Booker

- Cross State Air Pollution—Carper
- Glider Kits—Carper
- New Source Review—Carper
- Once in, Always In—Carper
- Kigali Amendment/Hydrofluorocarbons (HFC's)—Carper
- RFS (Pro)—Ernst, Moran, Rounds, Duckworth
- Small Refinery Exemptions—Ernst, Fischer
- Uranium Tailings—Barrasso

OARM

- Chesapeake Bay Office—Cardin, Van Hollen
- Kansas City Lab--Moran
- Region V Office—Duckworth
- Workforce Issues

OCFO

- Budget Overview

OCSPP

- Chlorpyrifos—Carper
- Formaldehyde—Markey
- Methylene Chloride—Markey
- TSCA Implementation—Carper, Markey
- TSCA Animal Testing Protections—Booker
- Worker Protection Standards—Booker
- PRIA
- Dicamba—Rounds

OECA

- Enforcement Priorities
- Chicago Manganese—Duckworth

OGC

- Sue & Settle

OLEM

- Coal Ash—Markey
- Brownfields
- Lead Exposure at Superfund Sites
- Risk Management Plan—Cardin
    - Chlorosulfonic Acid: Solvay Industries 2017 Release, Baltimore
- Superfund Program
    - Passaic River—Booker
    - Lower Hackensack River—Booker
    - American Cyanamid Company—Booker ***
    - Berry's Creek—Booker ***
    - Delaware Sand & Gravel—Carper ***
    - Des Moines TCE—Ernst ***
    - Hudson River Super Fund Site—Gillibrand
    - Hoosick Falls—Gilliland
    - Portland Harbor—Merkley ***
    - Centredale Manor Restoration Projects—Whitehouse ***
    - Mississippi Phosphate—Wicker ***

*** Administrator's Emphasis List

OP

- Environmental Justice—Booker

OW

- WOTUS—Carper, Sanders, Whitehouse, Merkley, Booker, Markey, Cardin, Gillibrand, Duckworth
- Lead
  - Chicago Drinking Water—Duckworth
- Chesapeake Bay Funding—Cardin, Van Hollen
- Great Lakes Funding—Duckworth
- Pebble Mine—Carper
- PFAS—Gillibrand
- ASTDR Study on PFAS—Gillibrand (Westhampton Beach, Air National Guard Base),
- WIFIA—Boozman
- Small Drinking Water Systems—Wicker

ORD

- Science Advisory Boards—Carper, Whitehouse
- Science Transparency—Merkley
- IRIS
- Vieques, Puerto Rico—Wicker

From: Lyons, Troy
Sent: Wednesday, July 18, 2018 2:48 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Molina, Michael <molina.michael@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Block, Molly <block.molly@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Morgan, Ashley <morgan.ashley@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Hanson, Paige (Catherine) <hanson.catherine@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
Subject: RE: EPW Hearing August 1

My apologies—adding Brittany

From: Jackson, Ryan
Sent: Wednesday, July 18, 2018 2:40 PM
To: Lyons, Troy <lyons.troy@epa.gov>
Cc: Molina, Michael <molina.michael@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Block, Molly <block.molly@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Morgan, Ashley <morgan.ashley@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Hanson, Paige (Catherine) <hanson.catherine@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>
Subject: Re: EPW Hearing August 1

We also need to involve our career program office leads in these prep sessions as well. Certainly Charlotte and Barry in particular and I'd of course defer to the political heads of other program offices to determine briefer attendees.

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

On Jul 18, 2018, at 2:21 PM, Lyons, Troy <lyons.troy@epa.gov> wrote:

> Please hold close--the Administrator has confirmed August 1st for his first hearing before EPW. This is a quick turnaround, so we will need everyone's assistance in preparing the Administrator.
>
> **Chris Beach**—could you please work on both written and oral testimony outlining the Administrator's priorities for the agency? Tony and Christian can provide any assistance you may need.
>
> **Program Offices**—OCIR has reached out to the program offices today to update the one pagers by next Wednesday, July 25. This will give a full weekend for the Administrator to review the material. We will schedule hearing prep the week of July 30th.
>
> _____
>
> **Troy M. Lyons**
> Associate Administrator
> Office of Congressional & Intergovernmental Relations
> U.S. Environmental Protection Agency
> 202-309-2490 (cell)

Hearing Prep—Topics
EPW

August 1, 2018

OAR

- CAFE—Carper
- California Waiver—Carper
- Clean Power Plan—Carper, Whitehouse, Merkley, Gillibrand, Booker
- Cross State Air Pollution—Carper
- Glider Kits—Carper
- New Source Review—Carper
- Once in, Always In—Carper
- Kigali Amendment/Hydrofluorocarbons (HFC's)—Carper
- RFS (Pro)—Ernst, Moran, Rounds, Duckworth
- Small Refinery Exemptions—Ernst, Fischer
- Uranium Tailings—Barrasso

OARM

- Chesapeake Bay Office—Cardin, Van Hollen
- Kansas City Lab--Moran
- Region V Office—Duckworth
- Workforce Issues

OCFO

- Budget Overview

OCSPP

- Chlorpyrifos—Carper
- Formaldehyde—Markey
- Methylene Chloride—Markey
- TSCA Implementation—Carper, Markey
- TSCA Animal Testing Protections—Booker
- Worker Protection Standards—Booker
- PRIA
- Dicamba—Rounds

OECA

- Enforcement Priorities
- Chicago Manganese—Duckworth

OGC

- Sue & Settle

OLEM

- Coal Ash—Markey
- Brownfields
- Lead Exposure at Superfund Sites
- Risk Management Plan—Cardin
    - Chlorosulfonic Acid: Solvay Industries 2017 Release, Baltimore
- Superfund Program
    - Passaic River—Booker
    - Lower Hackensack River—Booker
    - American Cyanamid Company—Booker ***
    - Berry's Creek—Booker ***
    - Delaware Sand & Gravel—Carper ***
    - Des Moines TCE—Ernst ***
    - Hudson River Super Fund Site—Gillibrand
    - Hoosick Falls—Gilliland
    - Portland Harbor—Merkley ***
    - Centredale Manor Restoration Projects—Whitehouse ***
    - Mississippi Phosphate—Wicker ***

*** Administrator's Emphasis List

OP

- Environmental Justice—Booker

OW

- WOTUS—Carper, Sanders, Whitehouse, Merkley, Booker, Markey, Cardin, Gillibrand, Duckworth
- Lead
    - Chicago Drinking Water—Duckworth
- Chesapeake Bay Funding—Cardin, Van Hollen
- Great Lakes Funding—Duckworth
- Pebble Mine—Carper
- PFAS—Gillibrand
- ASTDR Study on PFAS—Gillibrand (Westhampton Beach, Air National Guard Base),
- WIFIA—Boozman
- Small Drinking Water Systems—Wicker

ORD

- Science Advisory Boards—Carper, Whitehouse
- Science Transparency—Merkley

- IRIS
- Vieques, Puerto Rico—Wicker

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/29/2018 8:58:12 PM
To: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: Re: RMP

Steven

It sounds like Andrew might not received the very latest draft of this one pager. I mentioned this point in the oral briefing on Friday morning. I did not initially include that point when revising the talking points and then thought I had, but it sounds like that did not go to Andrew. We can fix that in the morning and have Jackie submit an updated draft.

Peter

Sent from my iPad

On Jul 29, 2018, at 4:37 PM, Cook, Steven <cook.steven@epa.gov> wrote:

> Any thought on this one?
>
> Sent from my iPhone
>
> Begin forwarded message:
>
> > **From:** adm15.arwheeler.email <adm15.arwheeler.email@epa.gov>
> > **Date:** July 29, 2018 at 4:27:21 PM EDT
> > **To:** "Cook, Steven" <cook.steven@epa.gov>, "Lyons, Troy" <lyons.troy@epa.gov>, "Jackson, Ryan" <jackson.ryan@epa.gov>
> > **Subject: RMP**
>
> **Deliberative Process / Ex. 5**
>
> Sent from my iPhone

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 8/15/2018 1:43:51 PM
To: Darwin, Veronica [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc98aaf2f15a466baede3dab0e27a35e-Darwin, Ver]
CC: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: Re: metrics; abandoned mines, rulemakings

Veronica

Thank you for the information and suggestions. I look forward to further discussions.

Peter

Sent from my iPad

On Aug 15, 2018, at 5:57 AM, Darwin, Veronica <darwin.veronica@epa.gov> wrote:

> Good Morning,
> As a follow-up to my discussion with Steven on Monday, I reached out to Katherine Dawes who is working on posting performance measures in OLEM's IO. I have asked to meet with her on Friday to discuss progress thus far – will have an update for you by the end of the week. Deliberative Process / Ex. 5
>
> Deliberative Process / Ex. 5
>
> Deliberative Process / Ex. 5 hanks. Happy to discuss.
> Veronica
>
> Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/11/2018 8:45:31 PM
To: Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: RE: FUDS Background info

Ryan

Thank you for sharing this with us.

I will discuss with Barry and Steven and we will be in touch with you about briefing Andrew.

Peter

-----Original Message-----
From: Jackson, Ryan
Sent: Wednesday, July 11, 2018 4:29 PM
To: Wright, Peter <wright.peter@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Subject: FW: FUDS Background info

Gentlemen --

Deliberative Process / Ex. 5

Thanks

Ryan.

-----Original Message-----
From: Niemeyer, Lucian L II HON OSD OUSD ATL (US) [mailto:lucian.l.niemeyer.civ@mail.mil]
Sent: Tuesday, July 10, 2018 4:54 PM
To: Wheeler, Andrew <wheeler.andrew@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: FUDS Background info

Andrew: Thanks for the call and follow-up. Here is some background information for your staff. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

USACE website with overview https://www.usace.army.mil/Missions/Environmental/Formerly-Used-Defense-Sites/

I wrote an article on the topic last year. https://www.cato.org/publications/commentary/turning-former-military-bases-economic-development

Deliberative Process / Ex. 5

Congratulations again.

Respectfully,

Lucian Niemeyer, ASD (EIE)

Phone:
Cell: Personal Phone / Ex. 6

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 8/20/2018 9:30:40 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]
CC: Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Falvo, Nicholas [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=424ac90ea7d8494a93209d14d37f2946-Falvo, Nich]
Subject: RE: FUDs Debrief - First Draft

Barry

Thank you. I look forward to reviewing all of information you have linked and referenced.

Peter

From: Breen, Barry
Sent: Monday, August 20, 2018 5:25 PM
To: Wright, Peter <wright.peter@epa.gov>; Falvo, Nicholas <falvo.nicholas@epa.gov>
Cc: Hilosky, Nick <Hilosky.Nick@epa.gov>
Subject: RE: FUDs Debrief - First Draft

I spent some time working on this today.

1. There is an office within Lucien's part of DOD called the Office of Economic Adjustment. Here is their website: http://www.oea.gov/ Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

2. Lucien testified before the House Armed Services Committee in April. Here is the written testimony: https://docs.house.gov/meetings/AS/AS03/20180418/108135/HHRG-115-AS03-Wstate-NiemeyerL-20180418.PDF

Deliberative Process / Ex. 5

3. In addition to the written testimony, the press summary is potentially helpful too – Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

https://federalnewsradio.com/dod-reporters-notebook-jared-serbu/2018/04/in-lieu-of-brac-dod-plans-big-spending-to-demolish-crumbling-facilities/

All this is of course preparatory to further discussions.

From: Wright, Peter
Sent: Friday, August 17, 2018 4:51 PM
To: Falvo, Nicholas <falvo.nicholas@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>
Subject: RE: FUDs Debrief - First Draft

Nick

Thank you for the write up. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Peter

From: Falvo, Nicholas
Sent: Friday, August 17, 2018 3:50 PM
To: Breen, Barry <Breen.Barry@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Subject: FUDs Debrief - First Draft

Deliberative Process / Ex. 5

Nicholas Falvo
Environmental Protection Agency
Office of the Administrator
Falvo.Nicholas@epa.gov
Office: (202) 564-5075
Cell: (202) 760-0581

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/19/2018 2:34:34 AM
To: Block, Molly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=60d0c681a16441a0b4fa16aa2dd4b9c5-Block, Moll]
CC: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Chancellor, Erin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ae6aeabeca754643bdb01c9f5b653ca6-Chancellor,]; Falvo, Nicholas [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=424ac90ea7d8494a93209d14d37f2946-Falvo, Nich]; Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=febaf0d56aab43f8a9174b18218c1182-Fotouhi, Da]
Subject: Re: FOR APPROVAL: RE: R5 draft press release to announce $26.6 million RCRA cleanup at DuPont in E. Chicago -TBA 8AM, Fri., 7/20

All

I am recused from working on DuPont matters due to the Dow DuPont merger. I will not review or comment.

Peter

Sent from my iPhone

On Jul 18, 2018, at 5:07 PM, Block, Molly <block.molly@epa.gov> wrote:

> Please review the press release attached from Region 5 on the cleanup for the DuPont/Chemours RCRA site in East Chicago. Please let me know if you have any questions or edits. Thank you!

Deliberative Process / Ex. 5

<DUPONT RELEASE 7-18.approvedDRAFT mb.docx>

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 8/22/2018 10:19:01 PM
To: Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]
CC: Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]
Subject: RE: URGENT: Need Barry/Steven/Peter review before 3pm Thursday

Jackie

I have only one change to these well drafted responses.

Deliberative Process / Ex. 5

Peter

From: Harwood, Jackie
Sent: Wednesday, August 22, 2018 6:04 PM
To: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Manges, Ellen <Manges.Ellen@epa.gov>
Subject: URGENT: Need Barry/Steven/Peter review before 3pm Thursday
Importance: High

Hi Barry, Steven and Peter,

Attached are OLEM's draft responses to the questions for the record (QFRs) sent to Acting Administrator Wheeler after his SEPW hearing on 8/1 – for your review. These responses have all been reviewed by the OLEM Office Directors, and OGC reviewed all but #53 (Superfund and climate change). I reviewed them all as well.

These are due to OCIR by 3:00 pm tomorrow (Thursday), which as you've probably heard, is a very firm deadline. Please get back to me with any comments or edits before 3:00 pm if possible.

And let me know if you have any questions or concerns.

Thank you.
Jackie

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand