Message

From: Atagi, Tracy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EBCFD670077440DFB63A691749F20AF2-TATAGI]
Sent: 1/19/2017 5:16:41 PM
To: Celeste, Laurel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8f5194a050ce4b758e02e6835fe0b43d-Celeste, Laurel]; Galbraith, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0abf7f5c1a5e462e8096cb58ef9757eb-MGALBRAI]
CC: Kohler, Amanda [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=665a6cdd3371457fb03d5184f58f7a4a-Kohler, Amanda]; Kaps, Melissa [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2fd9ca1cc4f145df83c8bdd2b683a290-mkaps]
Subject: Re: TDUs

[redacted]

From: Celeste, Laurel
Sent: Thursday, January 19, 2017 12:11 PM
To: Galbraith, Michael
Cc: Atagi, Tracy; Kohler, Amanda; Kaps, Melissa
Subject: Re: TDUs

[redacted]

From: Galbraith, Michael
Sent: Thursday, January 19, 2017 11:27:38 AM
To: Celeste, Laurel
Cc: Atagi, Tracy; Kohler, Amanda; Kaps, Melissa
Subject: Re: TDUs

[redacted]

Mike Galbraith
Permits Branch (5303P)
Program Implementation/Information Division
Office of Resource Conservation and Recovery
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

From: Celeste, Laurel
Sent: Thursday, January 19, 2017 10:47 AM
To: Galbraith, Michael
Cc: Atagi, Tracy; Kohler, Amanda; Kaps, Melissa
Subject: Re: TDUs

[redacted]

From: Galbraith, Michael
Sent: Thursday, January 19, 2017 10:31:09 AM
To: Celeste, Laurel
Cc: Atagi, Tracy; Kohler, Amanda; Kaps, Melissa
Subject: Re: TDUs

[redacted]

Mike Galbraith
Permits Branch (5303P)
Program Implementation/Information Division
Office of Resource Conservation and Recovery
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

From: Celeste, Laurel
Sent: Thursday, January 19, 2017 10:09 AM
To: Galbraith, Michael
Cc: Atagi, Tracy; Kohler, Amanda; Kaps, Melissa
Subject: Re: TDUs

[redacted]

[redacted]

From: Galbraith, Michael
Sent: Thursday, January 19, 2017 9:58:11 AM
To: Celeste, Laurel
Cc: Atagi, Tracy; Kohler, Amanda; Kaps, Melissa
Subject: Fw: TDUs

[redacted]

Mike Galbraith
Permits Branch (5303P)
Program Implementation/Information Division
Office of Resource Conservation and Recovery
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

From: Radtke, Meghan
Sent: Thursday, January 19, 2017 6:31 AM
To: Galbraith, Michael
Subject: Fwd: TDUs

[redacted]

Meghan

Meghan Radtke, Ph.D.
Special Assistant
Office of Resource Conservation and Recovery
Office of Land and Emergency Management
Office: 703-347-0229
Mobile: 703-472-8215

Begin forwarded message:

From: "Johnson, Barnes" <Johnson.Barnes@epa.gov>
Date: January 18, 2017 at 17:43:17 EST
To: "Devlin, Betsy" <Devlin.Betsy@epa.gov>, "Elliott, Ross" <Elliott.Ross@epa.gov>, "Sasseville, Sonya" <Sasseville.Sonya@epa.gov>, "Guernica, Mimi" <Guernica.Mimi@epa.gov>, ORCR IO <ORCR_IO@epa.gov>
Cc: "Michaud, John" <Michaud.John@epa.gov>, "Lewis, Jen" <Lewis.Jen@epa.gov>
Subject: FW: TDUs

[redacted]

Barnes Johnson

USEPA | Resource Conservation and Recovery | Tel 703-308-8895 | johnson.barnes@epa.gov | @EPAland

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From: David Case [mailto:dcase@etc.org]
Sent: Tuesday, January 17, 2017 2:59 PM
To: Johnson, Barnes <Johnson.Barnes@epa.gov>
Subject: TDUs

Barnes,

You asked me last week to explain the legal basis for including EPA in the citizen suit that has been drafted. Here is a short summary:

RCRA Section 3007 requires the Administrator or authorized state "to thoroughly inspect every facility for the treatment, storage, or disposal of hazardous waste for which a [RCRA] permit is required" at least every two years. RCRA uses the word "shall" which makes this inspection requirement a mandatory, non-discretionary duty. Upon information and belief, EPA has not conducted a RCRA inspection of the thermal desorption units (TDUs), nor has the State of Indiana.

In addition, RCRA Section 3005 requires a permit for the thermal treatment and disposal of hazardous wastes in the TDUs, and the regulatory exemption for recycling units does not apply. Because the facility does have a RCRA permit for its other hazardous waste activities, but not for thermal treatment and destruction of hazardous wastes in the TDUs, the Administrator also has a non-discretionary duty to revoke the facility's RCRA permit. RCRA Section 3005(e) provides: "Upon a determination by the Administrator … of noncompliance by a facility having a permit under this chapter with the requirements of this section …, the Administrator … shall revoke such permit." The facility is in noncompliance with the requirements of RCRA section 3005 to obtain a RCRA permit for operation of the TDUs or to include the TDUs within its current permit. RCRA Section 3005(e) uses the word "shall" which makes permit revocation a mandatory, non-discretionary duty.

EPA can satisfy its non-discretionary duties under RCRA by conducting a thorough inspection of the TDUs' operations and including the TDUs within the facility's current or renewed RCRA permit. We believe the facility's RCRA permit is scheduled for renewal this year.

David R. Case

Executive Director

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Environmental Technology Council

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