Message

From: Badalamente, Mark [Badalamente.Mark@epa.gov]
Sent: 7/19/2018 5:58:06 PM
To: OECA Office Directors and Deputy Directors [OECA_Office_Directors_and_Deputy_Directors@epa.gov]; Bodine, Susan [bodine.susan@epa.gov]; Traylor, Patrick [traylor.patrick@epa.gov]; Starfield, Lawrence [Starfield.Lawrence@epa.gov]; Shiffman, Cari [Shiffman.Cari@epa.gov]
CC: Bartlett, Keith [Bartlett.Keith@epa.gov]; Emmerson, Caroline [Emmerson.Caroline@epa.gov]
Subject: Guidance document issue discussed at this week's OD meeting - REPSONSE NEEDED BY 7/25

Colleagues –

On May 11, 2018, as part of an agency-wide request from the Office of Policy, OAP requested information from OECA offices related to the "types or categories" of guidance documents or interpretive rules OECA issues. In response, OECA submitted the following list to the Office of Policy:

- Documents labelled "guidance," e.g., Guidance Memoranda, Technical Guidance, Guidelines/Guides
- Memoranda/Memorandum
- Fact sheets
- Policy papers/statements
- FAQs
- Questions & Answers
- Letters responding to inquiries
- Documents interpreting statutes or regulations
- Penalty policies
- Enforcement response policies
- Financial models
- Sector audit agreements
- Memorandums of Agreement/Memorandums of Understanding
- Federal Facility compliance/enforcement alert - Multimedia

Following up on this request, OP now requests the actual documents that EPA would submit to Congress and GAO under the Congressional Review Act (CRA). OP seeks the following documents that were developed by OECA during this Administration only:

- Final rules other than those (1) of particular applicability or (2) related to agency management or personnel or (3) related to agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.
  - For OECA, this would include the Annual Penalty Adjustment Rule.
- Final guidance that is intended for external audiences and implements, interprets, or prescribes law or policy. This is not limited to documents styled as "guidance" and could include other types of documents (memos, policies, etc.). The documents may be addressed to EPA recipients but implement or interpret requirements on external parties. For example, we recently sent the OAR memo that withdrew the "once in always in" policy to the Hill and GAO under the CRA.
  - For OECA, an example would include the No Action Assurance issued July 6, 2018.

The types of documents covered under this request is narrower than the above list. For example, based on conversations with OP staff, please do not include Facts Sheets, FAQs, Q/A's, or other documents that are not intended for an external audience. **Please send a copy of each applicable document to Keith Bartlett no later than COB Wednesday 7/25.** Please contact Keith if you would like to discuss whether a specific guidance document or policy should be included in this request.

Thank you for your help on this, and sorry about the short turnaround.

– Mark

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