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I STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270

Office of the Regional Administrator

DATE

Ms. Anne Rolfes
Director, Louisiana Bucket Brigade
3416 B Canal Street
New Orleans, Louisiana 70119

Dear Ms. Rolfes:

Thank you for your letter dated March 31, 2022, to the U.S. Environmental Protection Agency regarding your concerns specific to the State of Louisiana's Clean Air Act program implementation summarized below:

1. The need for reduction of ethylene oxide emissions and a halt to new permitted sources, specifically the concern that the state of Louisiana is not heeding the latest scientific guidance.

2. Assurance that the Louisiana Department of Environmental Quality implements recommendations of the Louisiana Legislative Audit published in January of 2021 Monitoring and Enforcement of Air Quality.

3. Recommendation of disapproval of LDEQ's application for primacy on carbon capture and storage.

4. Multiple and specific issues at facilities of concern and multiple planned liquified natural gas terminals located along the Louisiana coastline.

The EPA announced on January 26, 2022, several key actions related to the concerns raised in your letter. EPA committed to address environmental justice concerns by conducting a Multi-Scale Monitoring Project. This project includes unannounced inspections, sampling, and air monitoring in priority areas that were toured during the Administrator's Journey to Justice visit. When the sampling and analyses are completed, we will share the analytical data and clearly communicate the risks the data indicates with the local communities. Detailed information about the announced actions can be found at this link: [HYPERLINK "https://www.epa.gov/newsreleases/epa-administrator-regan-announces-bold-actions-protect-communities-following-journey" \h].

The agency is conducting "risk and technology review" rulemakings of its existing National Emission Standards for Hazardous Air Pollutants for several chemical sector source categories. Many of the major stationary source facilities with higher ethylene oxide emissions identified in your letter are regulated by these rules with respect to controlling their hazardous air pollutant emissions. We also note that several of the sources you identified are minor stationary sources, or area sources for hazardous air pollutants

emissions. The EPA is planning to conduct a technology review for the National Emission Standards for Hazardous Air Pollutants for chemical manufacturing area sources, and we intend to consider ethylene oxide emissions from that source category as part of that review. These complex rulemakings often take several years to complete. We currently anticipate the potential rulemaking updates will be completed in 2024.

Although you have requested that EPA reject all permit applications to build new petrochemical facilities or prevent the expansion of existing facilities, the Louisiana Department of Environmental Quality is the primary CAA permitting agency for Louisiana with EPA providing technical assistance and program oversight. The state permitting agencies are required to issue air quality permits consistent with the federal program requirements. Federal statutes and regulations limit the EPA's ability to reject all permit applications for new petrochemical facilities or prevent expansion of existing facilities. *Cite*

Commented [KC1]: Our CAA authorities allow us to object to title V permits at 42 U.S.C. 7661d (CAA 505), and our NSR authority allows the Agency to issue a stop work order under 42 U.S.C. 7477 (CAA § 167).....the only other option would be to find that the State didn't appropriately implement the SIP which we've been historically counseled by ORC and OGC that we would have to build a record showing or demonstrating a systemic issue in the NSR permitting program of not complying with the approved NSR components in the SIP and/or federal NSR rules.

As part of our oversight effort, EPA Region 6 selectively reviews proposed construction and operating permits annually from the five states in Region 6. During these reviews, we provide comments to the state on the proposed permits. We encourage citizens to actively participate in the state permitting agency's public participation process for facility-specific permits to help ensure that the state is fully aware of the public's concerns and considers those concerns in developing a permit that is protective of human health and the environment. Regarding the Louisiana Legislative Audit, we have reviewed and incorporated, where appropriate, the report findings and recommendations into EPA Region 6's fiscal year 2021 program evaluation report for the LDEQ's title V permitting program, with the final report to be published this year.

Regarding your recommendation on the Underground Injection Control Class VI program, please note that the Louisiana Department of Environmental Quality would not be the implementing agency. On April 21, 2021, the Louisiana Department of Natural Resources officially submitted their final Class VI Primacy application for approval and codification to allow for and manage through state issued permits Class VI (Geo-sequestration) underground injection control wells. Class VI Geo-sequestration wells are a primary element of the agency's effort to mitigate climate change. Staff from the Region 6 Ground Water/Injection Control Section, Office of Regional Council, and the Office of Water /Office of Ground Water and Drinking Water initially determined the application incomplete due to questions about their public participation process and some minor edits to the Memorandum of Agreement and program description.

On September 17, 2021, Louisiana Department of Environmental Quality resubmitted their primacy package to the EPA with a revised Memorandum of Agreement, revised program description, and a complete documentation of a public hearing held on July 6, 2021, in Baton Rouge, Louisiana. The EPA reviewed the revised Louisiana Department of Natural Resources Class VI primacy application and determined it complete. Because this is considered a substantial program revision LDNR's Underground Injection Control Class VI program, EPA's Office of Water will initiate the rulemaking phase, simultaneously publish a Notice of Receipt of a complete application, issue the public notice and provide an opportunity to comment for a period of at least 30 days. Region 6 sent the revised Memorandum of Agreement and transmittal memo to the Office of Water for consideration on May 11, 2022. If the EPA approves primacy for Class VI wells in Louisiana, EPA Region 6 will work with LDNR to ensure any permitted wells in the UIC program are protective of underground sources of drinking water and human health and the environment.

Thank you for sharing your concerns, it is very important for me to hear from you regarding the issues that are impacting the communities in Louisiana. If you have any further questions, please feel free to contact David F. Garcia, Director of Air and Radiation Division, at (214) 665-7593 or [HYPERLINK "mailto:garcia.david@epa.gov" \h].

Sincerely,

Earthea Nance, PhD, PE
Regional Administrator