Message

From: Cope, Clayton [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3E1700E5B2BB47D394BA2D2421600B32-COPE, CLAYT]
Sent: 1/3/2023 7:28:09 PM
To: Don Hill [dhill@dpgproducts.com]
Subject: RE: Docket ID EPA-HQ-OGC-2022-0406

Mr. Hill,

The petition for rulemaking submitted by CBD, which the pending tentative decision is responsive to, is authorized by RCRA section 7004. EPA promulgated regulations implementing RCRA 7004, which are found in 40 CFR 260.20. EPA has not created any further guidance/SOP for responses to RCRA 7004 petitions for rulemakings.

Respectfully,

Clayton Cope (he/him/his)
Attorney-Advisor
Solid Waste and Emergency Response Law Office
Office of General Counsel
202-564-2647

From: Don Hill <dhill@dpgproducts.com>
Sent: Thursday, December 22, 2022 6:30 PM
To: Cope, Clayton <cope.clayton@epa.gov>
Subject: RE: Docket ID EPA-HQ-OGC-2022-0406

Thanks Clayton!

Totally understand the holiday season issue connecting with folks. No problem.

I should have clarified a bit.

Was asking what documents similar to the attached training module are used to train and direct Agency staff to ensure Agency RCRA petition responses are timely.

In this consent decree case, Agency staff failed to respond to the plaintiff's RCRA petition for over 7 years.
Clearly an unreasonable period of time as required by 42 U.S.C. 6974(a) RCRA § 7004(a).

This failure to respond resulted in litigation and the subsequent consent decree.

We located the EPA Quality Directives including EPA QA/G-6, but overall these directives appear to be focused on data and information quality.

Was asking if there are written policies, procedures, checklists or other guidance provided by Agency management for their staff to meet Agency regulatory requirements and avoid this type of failure and pubic humiliation.

On a personal note. Even as an outside observer, it is uncomfortable finding that staff within the Agency failed to adhere to the Agency's own regulatory requirements.
Am hoping staff training and guidance does *not* exist, and this case and similar cases fall squarely on Agency leadership for not providing adequate training and guidance. Typically, employees whose work results in their employer being sued

face consequences ranging from dismissal to limited opportunities to advance their careers. At minimum, the public humiliation of the lawsuit leaves their professional reputation tarnished further limiting future outside employment opportunities.

If Agency leadership has failed to provide adequate training and guidance, it is monumentally unfair that Agency staff should be left facing professional and possibly financial consequences.

Hoping the answer is that Agency leadership has not developed documented guidance and training programs to help staff meet EPA regulatory requirements – specifically as it relates to accepting, reviewing, responding and tracking petitions.

Regardless, if the Agency loses track of a petition for over 7 years, questions arise over the competency of the Agency to manage all manner of technical, regulatory and field operational environmental activities. Hoping there is an easy fix by developing policies and procedures to guide future petitions and Agency responses.

Thanks!

Sincerely,

Donald Hill
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From: Cope, Clayton <cope.clayton@epa.gov>
Sent: Thursday, December 22, 2022 3:12 PM
To: Don Hill <dhill@dpgproducts.com>
Subject: RE: Docket ID EPA-HQ-OGC-2022-0406

I am not quite sure the type of SOP that you are asking about. We do have the attached memo that requires a public comment period on CDs. We have a litigation group I want to double-check with before giving you a final answer, and of course most of the people are on leave until after the new year.

Respectfully,

Clayton Cope (he/him/his)
Attorney-Advisor
Solid Waste and Emergency Response Law Office
Office of General Counsel
202-564-7252

From: Don Hill <dhill@dpgproducts.com>
Sent: Wednesday, December 21, 2022 9:24 AM

To: Cope, Clayton <cope.clayton@epa.gov>
Subject: RE: Docket ID EPA-HQ-OGC-2022-0406

Thanks for the update.

One last item then we'll be out of your inbox LOL!

We have been unable to find the Agency's SOPs related to this type of consent decree case.
Could you or someone else provide the OCLC Number(s) or other identifier(s) for retrieval from the online EPA National Library Catalog?
i.e.: SOP along the lines of EPA QA/G-6.

Or does staff training and daily workflow rely on OTJ without written guidance in these matters?

Again, appreciate the help and promise this is the last inquiry needed on our end.

Thanks!

Sincerely,

Donald Hill
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From: Cope, Clayton <cope.clayton@epa.gov>
Sent: Tuesday, December 20, 2022 8:36 AM
To: Don Hill <dhill@dpgproducts.com>
Subject: RE: Docket ID EPA-HQ-OGC-2022-0406

Thank you for the kind words. I was able to double-check and we did not do any sort of formal internal investigation.

Respectfully,

Clayton Cope (he/him/his)
Attorney-Advisor
Solid Waste and Emergency Response Law Office
Office of General Counsel
202-564-7252

From: Don Hill <dhill@dpgproducts.com>
Sent: Monday, December 19, 2022 3:41 PM
To: Cope, Clayton <cope.clayton@epa.gov>
Subject: RE: Docket ID EPA-HQ-OGC-2022-0406

That would be great!

Totally understand the back-to-back holiday season.

BTW:
Your responsiveness is greatly appreciated and a rarity these days with short-staffed conditions.
Quite amazing actually you're finding time to respond so quickly.
Pretty safe bet your inbox and workload is not getting any lighter LOL!

Have a great holiday and weekend.

Thanks!

Sincerely,

Donald Hill
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From: Cope, Clayton <cope.clayton@epa.gov>
Sent: Monday, December 19, 2022 1:25 PM
To: Don Hill <dhill@dpgproducts.com>
Subject: RE: Docket ID EPA-HQ-OGC-2022-0406

Mr. Hill,

I need to check with some people before getting back to you. It being the holidays, many people are on leave this week.
I hope it is OK if I get back to you hopefully next week.

Respectfully,

Clayton Cope (he/him/his)
Attorney-Advisor
Solid Waste and Emergency Response Law Office
Office of General Counsel
202-564-7252

From: Don Hill <dhill@dpgproducts.com>
Sent: Monday, December 19, 2022 1:31 PM
To: Cope, Clayton <cope.clayton@epa.gov>
Subject: RE: Docket ID EPA-HQ-OGC-2022-0406

Thanks for the update.

Was there any internal investigation on the EPA's failure to be responsive to the petition?

Or did that become moot with the retirement of the staff involved and their subsequent participation with the plaintiff in this case?

Thanks for any insights!

Sincerely,

Donald Hill
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From: Cope, Clayton <cope.clayton@epa.gov>
Sent: Monday, December 19, 2022 10:45 AM
To: Don Hill <dhill@dpgproducts.com>
Subject: RE: Docket ID EPA-HQ-OGC-2022-0406

Hello Mr. Hill,

The tentative decision to the petition for rulemaking is currently being reviewed. Our consent decree with CBD requires that it be signed by the Administrator by 1/20/23.

A SBERFA panel is not planned for this decision.

Respectfully,

Clayton Cope (he/him/his)
Attorney-Advisor
Solid Waste and Emergency Response Law Office
Office of General Counsel
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From: Don Hill <dhill@dpgproducts.com>
Sent: Friday, December 16, 2022 12:14 PM
To: Cope, Clayton <cope.clayton@epa.gov>
Subject: RE: Docket ID EPA-HQ-OGC-2022-0406

Good morning Clayton,

Inquiring on status of this docket item and if a SBERFA panel was convened or the small business impact deemed unrelated.

EPA-HQ-OGC-2022-0406

Appreciate any information you can provide, or direction to other individuals or departments that could assist with the above inquiry.

Thanks!

Sincerely,

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