Appointment

From: Gunasekara, Mandy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=53D1A3CAA8BB4EBAB8A2D28CA59B6F45-GUNASEKARA,]
Sent: 1/30/2018 8:58:30 PM
To: Eric Byer [ebyer@NACD.com]

Subject: Accepted: Lunch with Mandy — Reservation at Central Michel Richard for 2
Location: 1001 Pennsylvania Ave., NW, Washington, DC 20004

Start: 2/2/2018 4:45:00 PM
End: 2/2/2018 6:15:00 PM
Show Time As: Busy

Message

From: Eric Byer [ebyer@NACD.com]
Sent: 9/28/2017 6:43:42 PM
To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
Subject: RE: Pestering

No worries. All set. Thanks so much.

Met with Patrick Traylor today. Was very impressed.

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
Sent: Thursday, September 28, 2017 9:41 AM
To: Eric Byer <ebyer@NACD.com>
Subject: Re: Pestering

I just talked with her and she will be on a Japan/Taiwan trip during that time.

Sent from my iPhone

On Sep 25, 2017, at 2:28 PM, Eric Byer <ebyer@NACD.com> wrote:

> Hey, sorry for nagging. Annual meeting in San Antonio on November 13. Can you swing? Thanks, EB

Message

From: Eric Byer [ebyer@NACD.com]
Sent: 9/28/2017 11:48:30 AM
To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
Subject: Re: Pestering

Hey you been able to ask Nancy?

On Sep 25, 2017, at 3:37 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

> Hey – sorry. I've been trying to make this work, but I will be in Germany on the 13th at the COP, so unable to make it. Do you want me to ask someone else?
> Best,
> Mandy
>
> ---
>
> **From:** Eric Byer [mailto:ebyer@NACD.com]
> **Sent:** Monday, September 25, 2017 2:27 PM
> **To:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
> **Subject:** Pestering
>
> Hey, sorry for nagging. Annual meeting in San Antonio on November 13. Can you swing? Thanks, EB

Message

From: Eric Byer [ebyer@nacd.com]
Sent: 10/22/2018 4:21:18 PM
To: Woods, Clint [woods.clint@epa.gov]
CC: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
Subject: FW: CICI Legisletter - October 22, 2018

Clint,

FYI.

Thanks,
Eric Byer
NACD

From: cici@memberclicks-mail.net <cici@memberclicks-mail.net>
Sent: Monday, October 22, 2018 12:13 PM
To: Eric Byer <ebyer@nacd.com>
Subject: CICI Legisletter - October 22, 2018

Chemical Industry Council of Illinois

Legisletter

October 22, 2018

Volume 32
Issue 16

TOTAL ETHYLENE OXIDE BAN PROPOSED, AIR PERMIT EMISSION BILL COULD SINK INDUSTRY

CICI has learned of an introduced bill which would wreak havoc on, if not obliterate, a large portion of the state's chemical industry. Anyone using Ethylene Oxide (EtO) or has an air permit to emit EtO should be dreadfully concerned. On behalf of the state's environmental community, SB 3640 has been introduced by State Senator John Curran (R-Downer's Grove) to ultimately ban the use of EtO anywhere in the state and allow any air permit to be opened up if there's a belief that any emissions could be a public health hazard.

The bill would:

- Outright ban on all uses of EtO in Illinois by 2022
- Immediately prohibit all non-medical uses of EtO
- Between now and 2022, medical sterilization with EtO would only be allowed where IEPA cannot find a suitable alternative, regardless of cost
- If no suitable alternative, EtO can be used for medical sterilization only if it is located at least 10 miles from any school or park in counties with a population above 50,000 or at least 15 miles from any school or park in counties with a population less than 50,000 people
- Requires the IEPA to immediately reevaluate and set new EtO emissions standards and regulations
- Expands the IEPA's authority to reopen any CAAPP permits where it's believed a public health hazard exists
- Expands the IEPA's authority to reopen CAAPP permits when new regulations or emissions standards relevant to CAAPP permits are issued
- Provides IEPA with emergency authority to immediately have a modified permit take effect where the agency believes emissions are endangering the public health

Attached here is a Chart of various products produced using EtO. EtO is an intermediate base chemical by which a number of other chemicals are created to manufacture a host of products. About 3% of EO is used for medical device sterilization - equipment, pharmaceuticals, gowns, gauze, etc. Over 2.1 million pieces are sterilized using EtO each day in Illinois. For many medical products, EtO is the only sterilizer allowed by the FDA.

Essentially, SB 3640 would shut down a number of major chemical and medical facilities in the state and has sent shock waves throughout the entire EtO industry. Industry strongly feels the underlying USEPA report on the risk of EtO is significantly flawed – which the industry is contesting at the federal level. ACC Request for Correction. In addition, the Ethylene Oxide Sterilization Association, has issued this EOSA Report on the flawed science behind the EPA IRIS assessment for EtO.

Obviously, there will be no shortage of industries who will oppose this legislation.

The issue of using EtO as a sterilizer, and in particular to a medical sterilization facility in Willowbrook, Illinois, will be the subject of a hearing in the House Environment and Energy Committees this Friday where we're hopeful to make the industry's case among what is assured to be a circus of folks who are absolutely convinced that emissions of EtO are the cause of numerous health problems.

CICI will report back next week after this hearing with an update on this issue.

ENVIRONMENTALISTS UNVEIL MORE OF THEIR PLANS FOR NEXT YEAR

In anticipating that JB Pritzker will be Illinois' new governor next year, the environmental community has laid out more of their plans for their endorsed candidate. Many of these initiatives are fairly

radical and will require little, if any, legislation or rule changes, instead relying on Executive Orders and other administrative actions.

- Withdraw proposed rule changes introduced for Dynegy/Vistra coal-fired electricity generation facilities immediately
- Announce a **moratorium on new high-volume hydraulic fracturing permits** until a scientific study can be completed
- Direct agencies to plan for going beyond Future Energy Jobs Act (Exelon bill) and **meet a goal of 100 percent clean energy by 2050 and reach 100% clean energy in state buildings by 2025**
- Establish a study on water rates across Illinois to determine policy or programming solutions to exorbitant and inequitable rate structures, including both municipal and private systems
- All agencies – not just environment and conservation agencies – should prioritize environmental justice, from housing to health care to **the siting of all facilities**
- **Ban the use of coal tar** and other products with high polycyclic aromatic hydrocarbon content for state agency pavement sealing projects
- **Ban the use of neonicotinoid pesticides** on state-owned land
- Strengthen the voice of the EJ Commission in the review of IEPA permits, rules, and proposed projects, as well as other matters pertaining to environmental justice within any state agency
- Study the impact of toxic materials allowed to be discharged and emitted under existing permits
- Fully fund programs that will remove lead paint from housing, daycares, and schools *(CICI Note: problematic as many proposed funding solutions involve fees on paint products)*
- Strengthen statewide rules regulating pet coke and fugitive dust emissions
- Direct Tollway to require the use of diesel particulate filters (DPFs) on diesel-powered construction equipment used on state-funded projects in Chicago and Metro East St. Louis with the goal that all DPF's should remove at least 85% of particulate matter
- Direct IEPA to develop regulations that will phase out the use of hydrofluorocarbons (HFCs)
- Use remaining VW settlement moneys on electric vehicles
- Adopted California's clean car standards and implemented more durable pollution controls on cars.
- Mandate that at least 50% of new vehicles purchased under new procurement guidelines are electric vehicles.

You can read the full report here: IEC Report

CICI is incredibly concerned about many of these proposals and will definitely have our work cut out for us over the next four years should the IEC policy become the doctrine of environmental policy if JB Pritzker becomes our next governor.

CICI ANNUAL MEETING DECEMBER 4

CICI's Annual Meeting will be held Tuesday, December 4, 2018, at Café La Cave, located at 2777 Mannheim Rd in Des Plaines. All **CICI** members are encouraged to attend. For more information and to register, follow this link: 2018 CICI Annual Meeting

The day's events begin with registration and a continental breakfast at 8:30 a.m. followed by the General Membership and Board of Directors meeting. The election of new **CICI** board members and officers will also take place.

The Keynote Speaker for this event is **Cathy Stepp**, **Regional Administrator for USEPA Region 5**. Her responsibilities include overseeing environmental protection efforts in the Great Lakes states of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin, as well as 35 federally recognized tribal governments.

Previously, Ms. Stepp served as the secretary of the Wisconsin Department of Natural Resources from 2011 to 2017. As state cabinet secretary, she led the third largest state agency with about 4,000 employees and was responsible for state enforcement and protection of wildlife, fisheries, state parks, trails, forests and environmental permitting.

Ms. Stepp also served as a Wisconsin state senator from 2003 to 2007, where she represented nearly 160,000 constituents and authored and advanced legislation on regulatory reform, job creation and other issues. Prior to entering public service, Ms. Stepp owned a home-building company.

Also, CICI's Chief Executive Officer, Mark Biel, will be making a presentation to the membership on the state of Illinois' chemical industry.

After lunch, there will be an awards ceremony and a Legislative & Regulatory Affairs Committee meeting. **Please note that a separate RSVP is needed for the afternoon Legislative & Regulatory Affairs Committee Meeting.** You can e-mail Lisa Frede at lfrede@cicil.net to RSVP for the Legislative/Regulatory meeting.

Please note that the Chemical Industry Council of Illinois *Legisletter* is not intended to convey legal advice or set forth all legal requirements applicable to particular circumstances.

Headquarters: 1400 E. TOUHY AVE., SUITE 110, DES PLAINES, IL 60018 - TEL :(847) 544-5995 - FAX :(847) 544-5999
Springfield: 400 W. MONROE, SUITE 205, SPRINGFIELD, IL 62704 - TEL :(217) 522-5805 - FAX :(217) 522-5815

This email was sent to ebver@nacd.com by bbabcook@cicil.net

Chemical Industry Council of Illinois • 1400 E. Touhy Ave., Suite 110, Des Plaines, Illinois 60018, United States • 847-544-5995 or 217-522-5805

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Message

From: Woods, Clint [woods.clint@epa.gov]
Sent: 10/11/2018 6:10:35 PM
To: Eric Byer [ebyer@nacd.com]
CC: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
Subject: Re: ALERT:*****State of Illinois Calls on Facility to Shutdown*****

Eric,

Sounds great - If there's any chance early next week (maybe Monday afternoon) might work, that would be best from my end.

Thanks!

Clint
202.564.6562

On Oct 11, 2018, at 1:57 PM, Eric Byer <ebyer@nacd.com> wrote:

> Thanks Mandy.
>
> Clint, please let me know if there is a good time to catch up.
>
> Thanks,
> Eric
>
> ---
>
> **From:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
> **Sent:** Thursday, October 11, 2018 12:07 PM
> **To:** Eric Byer <ebyer@nacd.com>
> **Cc:** Woods, Clint <woods.clint@epa.gov>
> **Subject:** Re: ALERT:*****State of Illinois Calls on Facility to Shutdown*****
>
> Hi and thanks for flagging this. I'm looping in Clint Woods who has been on top of the IL ethylene oxide situation. He has been working with all interested parties and can touch base.
>
> Beyond this, I hope all is well!
>
> Sent from my iPhone
>
> On Oct 11, 2018, at 11:03 AM, Eric Byer <ebyer@nacd.com> wrote:
>
>> Morning Sunshine!
>>
>> Hope all went well up north a few weeks back.
>>
>> Are you all in the air office weighing in on this utter nonsense? Dear lord. The panic in IL is crazy. Brainerd is seriously considering stopping the development of a plant in Danville, IL because of the overreaction.
>>
>> Thanks for any pearls of wisdom that you can share.
>>
>> Best to Surya and the fam!

Eric

From: <cici@memberclicks-mail.net> on behalf of Mark Biel <cici@memberclicks-mail.net>
Reply-To: "mbiel@cicil.net" <mbiel@cicil.net>
Date: Tuesday, October 2, 2018 at 1:44 PM
To: "Mathew A. Brainerd" <mat@brainerdchemical.com>
Subject: ALERT:*****State of Illinois Calls on Facility to Shutdown*****

<~WRD000.jpg>

Date: October 2, 2018

To: Chemical Industry Council of Illinois (CICI) Members

From: Mark Biel, CEO
mbiel@cicil.net or 217-522-5805

Re: ALERT: *****State of Illinois Calls on Facility to Shutdown*****

As many of you may be aware, concerns have been raised in the Willowbrook area about a facility which uses ethylene oxide (EO) to sterilize medical equipment.

While the facility's air emissions are well within the facility's legally permitted limits set by the IEPA and USEPA, the State of Illinois has called on the facility to cease operations until the USEPA can complete emission testing and analysis around the facility. If the facility stays open, the Governor has recommended that the Illinois Attorney General take legal action to close the facility, as requested in today's IEPA press release

This action is particularly disconcerting since CICI has provided the Governor's office, IEPA, and the Attorney General's office with the necessary safety information on Ethylene Oxide as well as our arguments over the use of the USEPA's flawed risk assessment.

The USEPA's recent risk assessment of EO claims a risk level for EO which is 19,000 times lower than what the human body produces naturally. Clearly, the USEPA risk assessment is implausible and flawed. (For background on the issue, please go to the Ethylene Oxide Sterilization Association statement. In addition, the American Chemistry Council has submitted a very thorough Request for Correction under the Information Quality Act to correct the ethylene oxide information used in the 2014 National Air Toxics Assessment.)

To shut down a legally operating facility is a frightening prospect for any facility operating in Illinois.

CICI will continue to work with the Governor's office and regulators on this issue, but CICI wanted you to be aware of the actions which are being taken by the State of Illinois. The consequences of this action has significant ramifications for the entire industry.

Note: Over 2 million pieces of medical equipment, devices, gauzes, etc. are sterilized with Ethylene Oxide every day in Illinois – Ethylene Oxide is a miracle product which has prevented countless cases of fungal, bacterial and viral infections. Shutdown of this facility will create serious risk for hospitals and medical device manufacturers that depend on EO all in the name of safety for the healthcare industry.

1400 E. Touhy Ave, Suite 110
Des Plaines, IL 60018
Tel: (847) 544-5995
Fax: (847) 544-5999

<image003.jpg>

This email was sent to mbrainerd@brainerdchemical.com by mbiel@cicil.net

Chemical Industry Council of Illinois • 1400 E. Touhy Ave., Suite 110, Des Plaines, Illinois 60018, United States • 847-544-5995 or 217-522-5805

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<image004.jpg>

<~WRD000.jpg>

Message

From: Eric Byer [ebyer@nacd.com]
Sent: 1/17/2019 7:01:31 PM
To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
Subject: FW: Hey
Attachments: ATT00001.txt

Hey there. Sorry for bugging you on this. Emailed to see if this meeting is still on and no word. Got any idea if it is cancelled because of the shutdown? Mark is traveling in from Chicago so wanted to give him a head's up. Thanks!

From: Rakosnik, Delaney <rakosnik.delaney@epa.gov>
Sent: Tuesday, December 18, 2018 1:53 PM
To: Eric Byer <ebyer@nacd.com>
Subject: RE: Hey

Hi Eric,

How about 1/24 at 2pm? How does that work for your schedule?

Thanks,

Delaney Rakosnik
Staff Assistant
Immediate Office of the Assistant Administrator
Office of Air and Radiation, USEPA
Room 5406A, 1200 Pennsylvania Avenue NW
Washington, DC 20460
Voice: 202-564-0935
Email: rakosnik.delaney@epa.gov

From: Eric Byer <ebyer@nacd.com>
Sent: Tuesday, December 18, 2018 11:27 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Rakosnik, Delaney <rakosnik.delaney@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>
Subject: RE: Hey

Great! Thanks MG!

Delaney, please let me know when works well for Bill and Clint.

Thanks,

Eric R. Byer
President

1560 Wilson Blvd., Suite 1100
Arlington, VA 22209
703.527.6223 x 3048 – Main Line
703.527.7747 - Fax
571.482.3048 - Direct
ebyer@nacd.com

From: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Sent: Tuesday, December 18, 2018 10:37 AM
To: Eric Byer <ebyer@nacd.com>
Cc: Rakosnik, Delaney <rakosnik.delaney@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>
Subject: RE: Hey

Hi and yes,
I've cc'd Delaney Rakosnik who is Bill's scheduler to see what may work that week. Bill will likely be joined by Clint Woods who has been our point person on Willowbrook, but I will certainly swing by and say hello.

Merry Christmas and I hope all is well!
Best,
Mandy

From: Eric Byer <ebyer@nacd.com>
Sent: Tuesday, December 18, 2018 9:11 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Hey

Morning!

Hope all is well.

I was talking with the Illinois Chemical Industry Council executive director the other day and he will be in town January 22-26th and I wanted to see if he and I could potentially come visit you and Bill about this Willowbrook Sterigenics mess some?

Week is pretty open so would you all have some time?

Thanks and Merry Christmas!

Eric R. Byer
President

1560 Wilson Blvd., Suite 1100
Arlington, VA 22209
703.527.6223 x 3048 – Main Line
703.527.7747 - Fax
571.482.3048 - Direct
ebyer@nacd.com

Message

From: Jennifer Gibson [JGibson@NACD.com]
Sent: 9/26/2017 1:44:10 PM
To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
Subject: EPA Cut the Red Tape Event

Hi Mandy.

Hope all is well with you! NACD has received a few invitations for various agency Cut the Red Tape events for Monday, October 2. Do you know if EPA is planning to hold such an event?

Best regards,

Jennifer

Jennifer C. Gibson
Vice President, Regulatory Affairs

National Association of Chemical Distributors (NACD)

nacd
National Association of Chemical Distributors

1560 Wilson Blvd., Suite 1100
Arlington, VA 22209
(703) 527-6223 x3047 – Main Line
(703) 527-7747 - Fax
(571) 482-3047 - Direct
jgibson@nacd.com
Linked

Message

From: Eric Byer [ebyer@NACD.com]
Sent: 9/25/2017 7:52:29 PM
To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
Subject: Re: Pestering

No worries. What about Nancy?

On Sep 25, 2017, at 3:37 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

> Hey – sorry. I've been trying to make this work, but I will be in Germany on the 13th at the COP, so unable to make it. Do you want me to ask someone else?
> Best,
> Mandy
>
> ---
>
> **From:** Eric Byer [mailto:ebyer@NACD.com]
> **Sent:** Monday, September 25, 2017 2:27 PM
> **To:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
> **Subject:** Pestering
>
> Hey, sorry for nagging. Annual meeting in San Antonio on November 13. Can you swing? Thanks, EB

Message

From: Eric Byer [ebyer@nacd.com]
Sent: 3/16/2018 11:48:59 AM
To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
Subject: FW: Pruitt huddled with coal exec who raised over $1M for Trump

Seriously, don't they have anything better to do then obsess about this stuff. Hope all is well. EB

From: POLITICO Pro Energy <politicoemail@politicopro.com>
Sent: Friday, March 16, 2018 5:06 AM
To: Eric Byer <ebyer@NACD.com>
Subject: Pruitt huddled with coal exec who raised over $1M for Trump

Pruitt huddled with coal exec who raised over $1M for Trump

By Alex Guillén and Emily Holden

03/16/2018 05:01 AM EDT

EPA Administrator Scott Pruitt met with an Indiana coal executive last year who was seeking to soften a pollution rule — and who once boasted about raising more than a million dollars for President Donald Trump's campaign, according to documents provided to POLITICO.

The records, obtained by the Sierra Club through a Freedom of Information Act lawsuit against EPA, show that Steven Chancellor, CEO of White Stallion Energy, met with Pruitt on May 22, 2017 for a "courtesy call and introductory meeting."

Pruitt has met regularly with GOP heavyweights ahead of what many expect to be a 2020 Senate run. He has also met with investors connected to Republican megadonor Sheldon Adelson as well as key conservative groups like the Family Research Council and Federalist Society.

Chancellor is also the head of the American Patriot Group, whose corporate headquarters in Evansville were designed to mimic the White House, and which owns White Stallion Energy, which mines coal from five sites in the Illinois Basin.

He hosted a $10,000-per-couple fundraiser with Donald Trump, Mike Pence and Rudy Giuliani in August 2016 that he said raised "north of a million" dollars. He later attended Trump's inauguration, where he was spotted shaking Pence's hand.

A longtime powerhouse GOP fundraiser in the Hoosier State, Chancellor in the 2000 campaign hosted an event headlined by George H.W. Bush. And he and his company, Black Beauty Coal, which was later sold to Peabody Energy, directly gave a combined $310,000 to Republicans, The Washington Post reported at the time. Chancellor then served Bush's Energy Department transition team. He also raised more than $1 million for Mitt Romney in 2012.

Chancellor petitioned the EPA in December 2016, asking the agency to soften a rule designed to curb pollution that floats across state lines. An update to the rule approved by the Obama administration could "significantly impact" Indiana utilities' reliance on coal produced from his mines, Chancellor wrote. EPA has not yet responded to Chancellor's petition or any of those regarding the update, the agency confirmed.

Also in the meeting was Rashid Hallaway, a former aide to Indiana Sen. Evan Bayh who went on to work directly for Chancellor and now represents him as an outside lobbyist. His client list also includes the American Coalition for Clean Coal Electricity.

It is unclear whether Pruitt and Chancellor discussed his petition. Calls to Chancellor's office were not returned, and EPA did not return a request for comment.

In addition to the Pruitt meeting, Interior Secretary Ryan Zinke's calendar showed a meeting with White Stallion earlier that day, although it is not clear that Chancellor personally attended that meeting.

But Zinke named Chancellor earlier this month to Interior's new International Wildlife Conservation Council, which will provide advice to Zinke on "the benefits that result from United States citizens traveling to foreign nations to engage in hunting." That council is scheduled to meet at the Interior Department on Friday.

Chancellor is a prolific big-game hunter, and his mansion includes a trophy room stuffed with taxidermied lions, elephants, polar bears, rhinos and zebras, according to photos posted on a 2012 blog. In 2001, he mustered his political connections to lobby the government of Botswana to lift a ban on lion hunting.

Interior earlier this month said hunters will be allowed to bring back elephant trophies from abroad.

The documents provided to POLITICO also showed that Pruitt met with dozens of industry executives and trade group representatives between the May 19 and June 19 period the calendar covered. And he had phone calls with GOP governors, attorneys general and lawmakers. He saw public health groups twice.

Pruitt also heard a pitch from executives of the water treatment technology company Reliable One Resources, which appears to have arranged a meeting through a former lawyer for Devon Energy Corp., the oil-and-gas company Pruitt had close ties to in his political career in Oklahoma.

EPA has fought routine requests for Pruitt's schedules, turning them over only when forced by the courts after lawsuits brought by environmental or government transparency organizations. EPA posts a far less comprehensive version of his calendar online every few weeks, omitting names and discussion topics. The new releases keep lunch and travel details confidential, a practice the Pruitt EPA has long followed.

The schedule released by EPA also did not reveal Pruitt's activities while representing the U.S. at a major international meeting in Italy, a trip that drew criticism because of its high travel costs and his policy of flying first class or business class.

Pruitt and his staff spent $36,000 on a military jet to New York to catch a plane to Rome following a last-minute invite to an infrastructure event in Cincinnati with President Donald Trump. Pruitt racked up another $7,000 in flight costs associated with the trip, including a business class ticket on the premium Emirates Airline.

The agency redacted information about meetings or events for two days of the trip and left another day's entries blank. The calendars offer no explanation for why Pruitt arrived several days early for the meeting of G-7 environment ministers. He spent the first part of his trip in Rome and departed Bologna shortly after the meeting there began to return to Washington to attend a much-publicized meeting at the White House where Cabinet secretaries praised Trump.

Pruitt's public schedule listed only a meeting with the U.S. Embassy and then a business roundtable on his first afternoon in Italy.

According to Pruitt's Twitter account, he kept a busy schedule in Italy before and during the G-7 gathering — including meeting with executives from U.S. companies; touring the Vatican and meeting with a top church official; discussing "rule of law" with Luciano Panzani, the president of the Court of Appeal in Rome; attending a " prosciutto and pasta" reception; meeting with Therese Coffey, a Conservative Party member of the U.K. parliament; speaking about air quality and baseball with Japanese Environment Minister Koichi Yamamoto; and meeting on stewardship with UPS, Sealed Air, CITI and the U.S. Chamber.

On the same Monday he met Chancellor, Pruitt spoke with the Large Public Power Council's CEO meeting about "the elimination of regulations affecting the electric power industry," with Duke Energy CEO Lynn Good about coal ash, and with the Congressional Coal Caucus.

The calendar also shows Pruitt visiting Oklahoma twice in the month disclosed.

On Saturday, May 20, in Tulsa he took an hourlong tour of Brainerd Chemical Company and then a half-hour tour of the restored office of oil baron Waite Phillips, which Brainerd's CEO leases.

To view online:
https://www.politicopro.com/energy/article/2018/03/pruitt-huddled-with-coal-exec-who-raised-over-1m-for-trump-418899

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This email was sent to ebyer@nacd.com by: POLITICO, LLC 1000 Wilson Blvd. Arlington, VA, 22209, USA

Message

From: Richard Gupton [Richard@aradc.org]
Sent: 9/21/2017 6:23:21 PM
To: Jeff Gunnulfsen [JGunnulfsen@afpm.org]; Richard Moskowitz [rmoskowitz@afpm.org]; Bolen, Brittany [bolen.brittany@epa.gov]; Jennifer Gibson [JGibson@NACD.com]; Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; Peter Lidiak [PLidiak@ilta.org]; Dominguez, Alexander [dominguez.alexander@epa.gov]; sjflanagan@ime.org; Lovell, Will (William) [lovell.william@epa.gov]; Gershman, Lorraine [lgershman@nopa.org]; Traylor, Patrick [traylor.patrick@epa.gov]; Kyle Harris [kharris@corn.org]; Richard Gupton [Richard@aradc.org]; Hunter Carpenter [hunter@aradc.org]
Subject: FW: 9/27 EPA Meeting

Importance: High

I received the note posted below from EPA to see if we can move up our meeting scheduled for Tuesday, September 26, 2017 at 2:30 p.m. to 11:30 a.m.

Please let me know the following:

1) Name of individuals and organizations that plan to attend so I can provide a list to EPA before the meeting for security purposes.
2) Are you able to meet at 11: 30 a.m. where we may have more time OR should we keep it at 2:30 p.m.?

Thanks again for all your help! I recommend a pre-meeting where we get together about 1 hour ahead of the scheduled meeting time. Does anyone have an office located near EPA willing to host the meeting or would a local coffee shop work?

Just let me know. Thanks!

Best regards,

Richard

Richard Gupton
Senior Vice President, Public Policy & Counsel
Agricultural Retailers Association
Suppliers to America's Farmers
1156 15th Street, NW | Suite 500 | Washington, D.C. 20005
Direct: Ex. 6 Main: 202.457.0825 | Fax: 202.457.0864
richard@aradc.org
www.aradc.org

Connect on Ag Retail Exchange, the ARA online community.

Save the Date
ARA Conference & Expo >> November 27-30, 2017
Arizona Biltmore: A Waldorf Astoria Resort >> Phoenix, Arizona

---

From: Kime, Robin [mailto:Kime.Robin@epa.gov]
Sent: Thursday, September 21, 2017 2:14 PM
To: Richard Gupton <Richard@aradc.org>
Subject: 9/27 EPA Meeting

Hi Richard,
I am looking at Samantha's calendar and seeing meetings fill up around your meeting with her next Tuesday. Is there any chance your folks can make the meeting same day but at 11:30 a.m. instead? If not, let's leave it alone for now, I will keep an eye on things. Take care.
Robin

Message

From: Ben Traynham [btraynham@NACD.com]
Sent: 4/3/2017 9:07:23 PM
To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
Subject: Re: Invitation to Administrator Pruitt for NACD Board Meeting
Attachments: removed.txt

Flag: Follow up

Thanks!

Benjamin Hawks Traynham
334-319-6908

On Apr 3, 2017, at 3:59 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

> Great – I sent it on to the Admin's scheduler/advance team.
>
> ---
>
> **From:** Ben Traynham [mailto:btraynham@NACD.com]
> **Sent:** Monday, April 3, 2017 4:24 PM
> **To:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
> **Subject:** Invitation to Administrator Pruitt for NACD Board Meeting
>
> Hi Mandy, I hope all is well at EPA. I'm sure it's been busy the first few weeks.
>
> Please find attached an invitation to Administrator Pruitt. Can you please make sure this gets in the right hands over there? Appreciate the help!
>
> Best,
> Ben
>
> **Benjamin Hawks Traynham**
> **Senior Director, Legislative Affairs**
> **National Association of Chemical Distributors (NACD)**
>
> 1560 Wilson Blvd., Suite 1100
> Arlington, VA 22209
> (703) 527-6223 - Main Line
> **(571) 482-3046 - Direct**
> (703) 527-7747 - Fax
> btraynham@nacd.com
> <image001.gif>

Message

From: Jennifer Gibson [JGibson@NACD.com]
Sent: 6/7/2017 1:23:49 PM
To: Beck, Nancy [Beck.Nancy@epa.gov]
CC: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
Subject: RE: NACD Follow Up to Meeting with Administrator Pruitt - Enforcement Recommendations and Examples

Thanks so much, Nancy. I will let Brenntag know that they will be hearing from EPA. Please let me know if you need any more details on the examples we sent with our letter.

Best regards,

Jennifer

Jennifer C. Gibson
Vice President, Regulatory Affairs

National Association of Chemical Distributors (NACD)

National Association of Chemical Distributors

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Arlington, VA 22209
(703) 527-6223 x3047 – Main Line
(703) 527-7747 - Fax
(571) 482-3047 - Direct
jgibson@nacd.com
Linked

From: Beck, Nancy [mailto:Beck.Nancy@epa.gov]
Sent: Tuesday, June 06, 2017 6:46 PM
To: Jennifer Gibson <JGibson@NACD.com>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: RE: NACD Follow Up to Meeting with Administrator Pruitt - Enforcement Recommendations and Examples

Jennifer,
Our enforcement office has looked into this and they will be following up with Brenntag directly. Because of the confidential nature of enforcement cases, we are not able to share this information with you. I'm hopeful the call will take place before Friday.

Our enforcement team is looking into the additional concerns that you sent as well.

Regards,
Nancy

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP

P: 202-564-1273
M: Ex. 6 Personal Privacy (PP)
beck.nancy@epa.gov

From: Jennifer Gibson [mailto:JGibson@NACD.com]
Sent: Thursday, June 1, 2017 4:56 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Subject: RE: NACD Follow Up to Meeting with Administrator Pruitt - Enforcement Recommendations and Examples

Thanks very much, Nancy.

Best regards,

Jennifer

Jennifer C. Gibson
Vice President, Regulatory Affairs

National Association of Chemical Distributors (NACD)

National Association of Chemical Distributors

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(703) 527-7747 - Fax
(571) 482-3047 - Direct
jgibson@nacd.com
LinkedIn

From: Beck, Nancy [mailto:Beck.Nancy@epa.gov]
Sent: Thursday, June 01, 2017 4:52 PM
To: Jennifer Gibson <JGibson@NACD.com>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Eric Byer <ebyer@NACD.com>
Subject: RE: NACD Follow Up to Meeting with Administrator Pruitt - Enforcement Recommendations and Examples

Thanks Jennifer,
I've passed this along to our enforcement office. They have been looking into it and should be getting back to me early next week.

Regards,
Nancy

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: Ex. 6 Personal Privacy (PP)
beck.nancy@epa.gov

From: Jennifer Gibson [mailto:JGibson@NACD.com]
Sent: Thursday, June 1, 2017 12:16 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Eric Byer <ebyer@NACD.com>
Subject: NACD Follow Up to Meeting with Administrator Pruitt - Enforcement Recommendations and Examples

Dear Mandy and Nancy,

Thanks again to Administrator Pruitt and both of you for meeting with the NACD Board of Directors on May 15. In response to the Administrator's request for more information, attached is a letter from Eric with NACD's recommendations on inspection and enforcement timelines and approaches. Appendix A of the letter includes several examples of enforcement delays and abuses NACD members have experienced in recent years. Please share this document with Administrator Pruitt.

We look forward to answering any questions you and the Administrator have and to continuing our discussions on these important issues.

Thank you for all of the hard work you and Administrator Pruitt are doing to create a rational regulatory environment for the business community!

Best regards,

Jennifer

Jennifer C. Gibson
Vice President, Regulatory Affairs

National Association of Chemical Distributors (NACD)

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Message

From: Eric Byer [ebyer@NACD.com]
Sent: 9/20/2017 11:47:50 AM
To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
Subject: NACD Annual Meeting

Ok, so we had a call with the hotel and the meeting is going to have to be moved to San Antonio. Likely heading to the JW Marriott in San Antonio Hill Country. Think you can swing that instead of Naples? Morning!

National Association of Chemical Distributors

Advancing **Stewardship**, Creating **Connections**™

April 3, 2017

The Honorable Scott Pruitt
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Pruitt:

On behalf of the National Association of Chemical Distributors (NACD), I would like to invite you to be our guest speaker during NACD's 2017 Board of Directors meeting on Monday, May 15, 2017.

NACD is a trade association representing over 250 chemical distribution companies throughout North America. These companies process, transport, and market chemical products for an industrial customer base of about 750,000. Unique to NACD is our condition of membership requiring participation in the Responsible Distribution process, a management practice that embraces continuous improvement in health, safety, security, and environment protection performance.

We would be honored to have you discuss EPA's plan to facilitate a better working relationship between industry and the agency. The Board of Directors meeting will take place at the Ritz Carlton Pentagon City Diplomat Room. We would be pleased to have you deliver your remarks at a time between noon and 5:00 p.m. that works best for your schedule.

We sincerely hope you will be able to join us May 15. Please contact NACD Coordinator of Legislative Affairs Doug Leigh at (571) 482-3069, dleigh@nacd.com, or me regarding your participation. We look forward to working with you to facilitate your appearance. Thank you for your consideration.

Sincerely,

Eric R. Byer
President

1560 Wilson Blvd., Suite 1100 Arlington, VA 22209 P: 703.527.6223 F: 703.527.7747 nacd.com

Message

From: Jennifer Gibson [JGibson@NACD.com]
Sent: 6/6/2017 6:26:34 PM
To: Beck, Nancy [Beck.Nancy@epa.gov]
CC: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
Subject: RE: Brenntag Proposed TRI Penalty Case

Thanks so much, Nancy!

Best regards,

Jennifer

Jennifer C. Gibson
Vice President, Regulatory Affairs

National Association of Chemical Distributors (NACD)

National Association of Chemical Distributors

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jgibson@nacd.com
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From: Beck, Nancy [mailto:Beck.Nancy@epa.gov]
Sent: Tuesday, June 06, 2017 2:19 PM
To: Jennifer Gibson <JGibson@NACD.com>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: RE: Brenntag Proposed TRI Penalty Case

Jennifer,
Our enforcement office is looking into this and they are planning to have an update for me tomorrow. I will keep you posted.

Regards,
Nancy

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: Ex. 6 Personal Privacy (PP)
beck.nancy@epa.gov

From: Jennifer Gibson [mailto:JGibson@NACD.com]
Sent: Tuesday, June 6, 2017 10:38 AM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Brenntag Proposed TRI Penalty Case

Hi Nancy.

I am checking in to see if there are any updates on Brenntag Mid South's TRI penalty case. Brenntag is required to respond to Region 4's settlement offer by this Friday, June 9, so they need to know whether they should just pay the penalty or if there is any chance for relief. We really appreciate your looking into this. I know you are incredibly busy.

Thanks again.

Jennifer

Jennifer C. Gibson
Vice President, Regulatory Affairs

National Association of Chemical Distributors (NACD)

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jgibson@nacd.com
LinkedIn

Message

From: Eric Byer [ebyer@NACD.com]
Sent: 9/15/2017 11:02:14 AM
To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
Subject: RE: Annual Meeting

Ok, sounds great. Thanks!

In full disclosure, our annual meeting location got clobbered with the hurricane. Will know for sure if we are still able to go there by mid-week next week. Might have to move to San Antonio just not sure. Not sure if that move is a deal breaker for you but wanted to give you the head's up.

Hope all is well. EB

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
Sent: Thursday, September 14, 2017 3:45 PM
To: Eric Byer <ebyer@NACD.com>
Subject: RE: Annual Meeting

I'm traveling to Germany at some point during Nov. 6 to 17. I don't believe I will be there the entire time, but I have a meeting to finalize that tomorrow afternoon. If I am here, I will absolutely attend and speak at the meeting. I just need to confirm my scheduling – will follow-up tomorrow.

From: Eric Byer [mailto:ebyer@NACD.com]
Sent: Thursday, September 14, 2017 3:11 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: RE: Annual Meeting

Checking back in on this. I know it has been a crazy week with Irma. Thanks

---

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
Sent: Friday, September 08, 2017 9:46 AM
To: Eric Byer <ebyer@NACD.com>
Cc: Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: RE: Annual Meeting

I need to double check with the calendar. I'll follow-up later today -- I'm cc'ing Alex who will hold me accountable to that!

From: Eric Byer [mailto:ebyer@NACD.com]
Sent: Friday, September 8, 2017 9:13 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Annual Meeting

Sorry for pestering. Trying to get a draft of our agenda completed. Able to come to Naples assuming our hotel doesn't get swallowed up by Irma on November 13? **Ex. 6 Personal Privacy (PP)**

Thanks,
EB

Message

From: Eric Byer [ebyer@NACD.com]
Sent: 9/15/2017 10:59:31 AM
To: Traylor, Patrick [traylor.patrick@epa.gov]; Jennifer Gibson [JGibson@NACD.com]
CC: Allison Tuszynski [atuszynski@NACD.com]
Subject: RE: NACD Enforcement Recommendations Follow Up

Call me Eric, please. How about 9/29 at 11am?

Thanks,
Eric

From: Traylor, Patrick [mailto:traylor.patrick@epa.gov]
Sent: Thursday, September 14, 2017 3:34 PM
To: Eric Byer <ebyer@NACD.com>; Jennifer Gibson <JGibson@NACD.com>
Cc: Allison Tuszynski <atuszynski@NACD.com>
Subject: RE: NACD Enforcement Recommendations Follow Up

Mr. Byer:

With my regrets for the delay occasioned by our response to the two storms, I would be happy to meet with NACD. I can make myself available September 26 or 28.

Warm regards,
Patrick

Patrick Traylor
Deputy Assistant Administrator
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
(202) 564-5238 (office)
Ex. 6 Personal Privacy (PP)

From: Eric Byer [mailto:ebyer@NACD.com]
Sent: Thursday, September 14, 2017 3:11 PM
To: Jennifer Gibson <JGibson@NACD.com>; Traylor, Patrick <traylor.patrick@epa.gov>
Cc: Allison Tuszynski <atuszynski@NACD.com>
Subject: RE: NACD Enforcement Recommendations Follow Up

Patrick—

Wanted to follow back up with you on this request to see if we could meet at some point?

Thanks,

Eric R. Byer
President

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703.527.7747 - Fax
571.482.3048 - Direct
ebyer@nacd.com

From: Jennifer Gibson
Sent: Thursday, August 31, 2017 11:40 AM
To: traylor.patrick@epa.gov
Cc: Eric Byer <ebyer@NACD.com>; Allison Tuszynski <atuszynski@NACD.com>
Subject: NACD Enforcement Recommendations Follow Up

Dear Mr. Traylor,

I am writing in response to Administrator Pruitt's July 25, 2017 letter to NACD President Eric Byer regarding our concerns and recommendations about EPA's enforcement practices to request a meeting with you to further discuss these issues. A copy of our original letter is attached for your reference.

We truly appreciate EPA's offer to further engage with NACD about the agency's timeliness in handling enforcement cases and the level of enforcement and to take steps to improve the situation.

We look forward to meeting with you and discussing these issues. Please let us know some good times for you within the next several weeks.

Thank you for your consideration.

Best regards,

Jennifer C. Gibson
Vice President, Regulatory Affairs

National Association of Chemical Distributors (NACD)

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(571) 482-3047 - Direct
jgibson@nacd.com

June 1, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
Mail Code 1101A
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Pruitt:

Thank you for meeting with the National Association of Chemical Distributors[1] (NACD) Board of Directors on May 15 and for your willingness to address the U.S. Environmental Protection Agency's (EPA) enforcement practices that result in needless uncertainty for businesses.

The majority of NACD members are small businesses that typically do not have the resources and legal expertise to battle EPA and other agencies when charges are levied against them. Because of this, they are pressured into settling and paying the fines, justified or not. To make matters worse, EPA has consistently failed to follow up on inspections and resolve cases in a timely manner, thereby hindering the ability of companies to focus on developing and growing their businesses.

As a follow up to our meeting, we are pleased to present the recommendations below. Also included in Appendix A to this letter are some examples of enforcement abuse cases NACD members have experienced.

Clear Time Limits Between Inspection and Next Steps/Clear Resolution of Cases
NACD strongly urges EPA to adopt limits between the time of an inspection and the time when the agency presents a company with a notice of violation (NOV). There have been far too many cases in which EPA conducts an inspection and raises some issues but then the company does not hear anything until one, two, or even three years later when they are presented with a NOV and proposed six-figure penalties. If a violation is so severe that it deserves a six-figure penalty, it does not make sense for EPA to keep that company in limbo for up to three years. NACD urges EPA to adopt a policy in which inspectors are straightforward with facilities and provide them with a clear description of the next steps and the timeframe for additional action.

For minor paperwork issues such as failure to report on a substance or misreporting an amount, it should be EPA's policy to notify the company of the violation **no later than 60 days following the inspection**. For more complex issues such as failure to implement a Risk Management Plan properly, it should be EPA's policy to notify the company of the violation **no later than 120 days following the inspection**.

[1] NACD's nearly 440 member companies are vital to the chemical supply chain, providing products to over 750,000 end users. NACD members are leaders in health, safety, security, and environmental performance through implementation of NACD Responsible Distribution®, established in 1991 as a condition of membership and a third-party-verified management practice. For more information, visit www.NACD.com.

Further, these notifications must include ***all*** items of concern identified by EPA. NACD members have reported that, in many cases during negotiations with EPA, the agency has raised additional issues that were not included in the original notices.

If EPA fails to follow these timelines, the case should be considered closed and EPA prohibited from taking additional action against that company on the matter.

Once EPA has issued a violation notice and the company has responded, EPA should be held to the same timelines for response as the company. For example, if a company has 15 days to respond to an EPA order, the agency should have 15 days to follow up on that response. If EPA fails to follow the prescribed timeline, proposed penalties should be reduced, for example, 10 percent for each day over the required response date. EPA should be required to follow these prescribed timelines through final settlement of the case.

In addition, following an inspection in which EPA finds no violations, the agency should notify the company it is in good standing **no later than 60 days following the date of the inspection**.

Compliance Assistance and Grace Periods Over "Find and Fine"

Environmental protection would be enhanced if EPA would take a collaborative, compliance assistance-oriented approach rather than the too-common "find and fine" approach. EPA should work with facilities to ensure they are aware of their regulatory obligations before issuing penalties. In many cases, facilities, particularly small businesses, may be out of compliance not out of malice, but because they are simply unaware of the requirements or do not understand them. In small companies, the individual charged with regulatory compliance typically has other duties in addition to keeping current of all the federal, state, and local regulations to which the business is subject. Rather than issuing penalties without question, EPA should provide a period of time to comply.

For example, if an issue is easily correctable, such as a minor paperwork oversight, EPA should give the company no more than 30 days to submit the proper/correct information. If it is a more complex issue such as failure to develop a Risk Management Plan, EPA should give the company 180 days to submit the plan. If the company fails to comply within these timeframes, it is justifiable for EPA to issue penalties.

Again, written closure that the issue has been resolved is critical.

Adoption of these recommendations would significantly increase regulatory certainty for NACD members and the business community at large.

Thank you for the opportunity to present these recommendations. If you have questions or need additional information, please do not hesitate to contact me.

Sincerely,

Eric R. Byer
President

NACD Member Examples of U.S. Environmental Protection Agency Enforcement Abuse

<u>Title V Air Permitting, New Source Performance Standards, Hazardous Substance Release Reporting</u> – ***Still Pending***
EPA Region 5

Charges Made Against Chemical Company in March 2008 That Remain Unresolved as of May 2017

In October 1981, a chemical company acquired from another chemical company a sulfuric acid production facility in Chicago, which the company then successfully operated for many years without any regulatory challenge by either state or federal environmental authorities.

Then, in March 2008, the U. S. Environmental Protection Agency's (EPA) Region 5 Office in Chicago, Illinois, sent Notices to the company claiming the Chicago facility that the company had operated since 1981 violated various EPA laws and regulations, including: (1) failure to obtain a federal Title V Air Permit; (2) failure to comply with federal New Source Performance Standards (NSPS); and (3) failure to report the release of a reportable quantity of a hazardous substance on December 31, 2007.

The company requested a meeting at the Region 5 Office, which took place April 15, 2008, to discuss these charges. At the meeting, one of the participating EPA representatives elaborated on the third charge, claiming the alleged December 31, 2007, hazardous release from the company's Chicago facility had caused "evacuations" of the company's neighbors. The company responded that neither the release nor the evacuations ever happened.

The day after the April 15, 2008, meeting at the Region 5 Office, an EPA attorney who had been present at the meeting called the company's General Counsel. During that conversation, the EPA attorney stated that he was surprised to hear his colleague accuse the company at the meeting of causing "evacuations" of the facility's neighbors because the EPA attorney had never before heard that accusation. After the meeting, he pressed his colleague on the issue, and, according to the EPA attorney, the EPA representative who made that accusation confessed he had made it up. The EPA attorney apologized for his colleague's false charge.

In June 2008, the company filed numerous responses to the EPA's charges, informing the EPA that, for the following reasons, the charges simply lacked merit:

1. The company is not required to obtain a Title V Air Permit because it has obtained instead a proper Federally Enforceable State Operating Permit (FESOP) that has remained continuously in good standing since its initial issuance to the company in 1981;

2. The company is not required to comply with the NSPS standards because the facility was built before those standards were enacted and, by their own terms, they do not apply to the facility;

3. Even if the NSPS standards were applicable to the company's Chicago facility, the company meets or exceeds all the material operating standards; and

4. Based upon the sworn statements of all the company's employees who were working on-site at the Chicago facility on December 31, 2007, the alleged December 31, 2007, release of hazardous material never occurred.

EPA Region 5 never replied to the company after receiving the company's June 2008 responses, nor has the EPA otherwise taken further action to resolve any of these alleged violations.

All these charges remain "open."

Toxic Substances Control Act 2012 Chemical Data Reporting – ***Still Pending***
EPA Region 10

1. A small company in Region 10 submitted its 2012 Chemical Data Report (CDR) to EPA June 5, 2012.

2. On May 16, 2013, Daryl D. Hudson and Dan-Tam Nguyen from ERG, an auditing firm for EPA, arrived to do a spot audit of the company's CDR submission.

3. Emails were exchanged and data requested by the auditors through the end of 2013.

4. Re-submission of data with corrections to the original report of June 5, 2012 were entered into EPA December 27, 2013.

5. Subpoena and Order to Show Cause Letter were received from EPA in the company's office June 13, 2016.

6. Subpoena and Order to Show Cause Letter addressed **ONLY TWO** violations/issues.

7. A conference call was held July 26, 2016, with Deniz Ergener and Tony Ellis of EPA. EPA confirmed they received the company's reply to the subpoena and they were satisfied with the reply and closed the subpoena.

8. During the conference call of July 26, 2016, **FIVE** issues/violations were discussed instead of two. This was the first the company learned there were three more violations than those outlined in the Order to Show Cause. They showed the company had two failed to report and three mis-reported quantities. Initial fines were discussed: Fail to report, $24,080 per product; Mis-reporting, $18,420 per product.

9. The company submitted evidence to show corrections, responses etc.

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10. A conference call was held September 1, 2016, again with Deniz Ergener and Tony Ellis of EPA. Tony Ellis announced on this call that they were only fining the company for one Fail to report equaling $24,080.00 and one Mis-Report equaling $18,420 — a total fine of $36,125.

11. Since that time, the company has engaged in discussions to negotiate fines down based on company financial performance etc. They have submitted tax returns for the past three to four years to demonstrate rationale for lowering the fines. The company was advised last year EPA would be lowering the fines, and the company has been very cooperative etc. The company submitted additional financial information in January. They have not heard from EPA since.

Time/Resources Spent on this Case:

The company's inside general counsel (GC) did all the legal work. An estimated breakdown of time spent on this case is as follows:

GC time: 50-70 hours total
CFO time: 30-40 hours total
Compliance director: 60-80 hours total
Purchasing Manager: 60-80 hours total

This includes overlap as they had several calls with EPA where three to four company staff were on the call. They had to do significant recalculations and re-checks of their information to prove to the EPA they did not deserve to be penalized for certain items (this was a lot of data combing done by the compliance and purchasing managers, and then reviews and revisions by the GC and CFO). This is all tedious and seriously time consuming. The GC also drafted letter responses back and forth and those take a long time to get right.

The bottom line is that this small company was fortunate to have a talented GC who could lead the effort on this. The necessity to retain counsel would have led them to spend less time on it and just cave in and pay the fines. This is the usual cost/benefit analysis of paying money to lawyers to pay less money to the EPA, which is an all-too-common situation for small businesses like NACD members.

Federal Insecticide, Fungicide, and Rodenticide Act Labeling – ***Still Pending***
EPA Region 7

- A company in the Midwest purchased a label for a pesticide in 2011.
- EPA examined the label and instructed the company to make changes. The company did exactly as EPA asked.
- In 2013, the company decided to use a different (EPA-approved) vendor and alerted EPA. The company used the same label.
- EPA issued a Stop and Hold, asking the company to re-label. The company submitted to EPA and, upon further revisions, resumed business with the product.

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- In 2016, EPA informed the company that information on the label was improper and issued a Stop and Hold.
- Of note:
    - EPA approved this same information in 2013.
    - The company has been going back and forth for months with the EPA Office of Pesticide Programs and the Office of Enforcement and Compliance Assistance.
    - EPA has noticed a penalty of $160,000 as of May 2017.
    - The company has spent nearly $250,000 on legal fees and communications with EPA.

Resource Conservation and Recovery Act Corrective Measures Study Approval Delays – ***Still Pending***
EPA Region 7

Extensive delays on remediation plan approvals at a facility in Kansas City.

In 1990, Elementis Chemicals and a subsidiary of Philips Electronics signed an Administrative Order on Consent (AOC) with EPA to conduct a Resource Conservation and Recovery Act Facility Investigation and Corrective Measures Study (CMS).

In 2001, Harcros was added to the AOC as a Respondent.

In October 2002, the Respondents submitted the CMS outlining the approach to remediate the property. The CMS proposed that certain areas of surface soil contamination would be capped, certain areas of subsurface soil would be subjected to treatment, indoor air would be addressed, and groundwater would be controlled and stabilized to prevent contaminants from migrating into uncontaminated areas and eventually to the Kansas River. To date, EPA has neither approved the 2002 submission nor provided comments, amounting to 14.5 years of review. The Respondents have approached EPA numerous times to break the silence and proceed with approving the CMS with no success. The Respondents met with EPA management, and the agency promised to review the CMS; however, the agency did not follow up. The Respondents approached the highest levels of EPA management each time in attempts to restart the project. The lack of feedback from EPA seemed to be caused by staffing issues rather than a controversial cleanup plan.

Because the Respondents sensed EPA's lack of progress in the early 2000s, they began to strategically implement the corrective measures. They designed a Soil Vapor Extraction System (SVE) in 2002 and submitted the plans and specs for EPA review. EPA said that if the SVE system was installed, it would be at the Respondent's own risk. They proceeded with installation of the SVE system on their own in a six-acre area (mid-area) of the facility and subsequently added a western tank dike area and a sub slab under the main warehouse. To date, they have removed 34,500 pounds of solvents from the vadose zone. They have also paved a few areas at their own risk to cover surface soil that exceeded corrective action goals. With respect to groundwater, they agreed to install two extraction wells on the river side of the levee as part of an AOC modification and pump 175 gallons per minute to maintain a capture zone that was sufficient to keep the plume from migrating. To date 3/4 of a billion gallons have been pumped

and treated from the extraction wells. Each extraction well captures a different plume (northern and southern plumes).

In 2010, a request was made to terminate pumping at extraction well EW-1 since the goals of the AOC had been met. EPA requested various technical information, which was quickly provided for review. Years went by with no response even though the Respondents submitted additional technical information as requested by the agency.

After six years of review, EPA approved the termination of pumping at EW-1. The most basic review took EPA years to accomplish while a group of qualified persons could have reviewed the same information and reached a conclusion in a matter of hours or days. EW-2 continues to pump at 100 GPM, and "at their own risk" the Respondents are addressing the southern plume by introduction of a carbon source to promote anaerobic degradation of the chlorinated solvents.

Three years ago, Harcros approached EPA after experiencing several derailments at the facility. The rail system needs to be upgraded to address a worn system and to handle heavier and longer rail cars. Harcros retained a design firm to upgrade the system to improve turning radius, install heavier track with additional spurs to handle more trans loading business, and improve secondary containment at loading/unloading stations. Since the soil beneath the rail tracks is contaminated above cleanup objectives, Harcros needed EPA's blessing on the extent of excavation and classification of the waste.

Three years later, Harcros still does not have approval to begin construction. EPA is being extremely conservative and frankly not in compliance with their own guidance for waste classification. In short, EPA believes all the excavated soil would be a listed waste, while the Respondents believe the waste would be subjected to characteristics testing. To form an opinion on this topic, Respondents gathered all spill information from their files and provided it to Arcadis for review. This review was comprehensive and included many documents from litigation between the Respondents. Arcadis prepared a 40-page white paper on the waste classification subject, and a meeting was held with EPA to discuss. An additional meeting was planned but was canceled by EPA due to the "transition of presidents."

There are many other details that may be relevant regarding this case, but this summary conveys the sense of frustration the Respondents have confronted on the project. Harcros is happy to provide additional details upon request.

<u>Toxic Substances Control Act (TSCA) – Failure to File a Premanufacture Notice</u> – ***Settled***
EPA Region 2

1. August 2013 – The company was notified of a possible TSCA import matter. The company internally confirmed the same day materials in question were not on the public inventory.

2. August 2013 – Company met with EPA officials at their offices in New Jersey.

3. September 2013 – Company submitted requested documents/records to EPA officials.

4. November 2014 – Company counsel reached out to EPA for a status update report.

5. January 2015 – Counsel made contact with EPA (delays over the Christmas holidays).

6. February 2015 – Company obtained agreement from supplier to accept a return of the material. (They had previously communicated to EPA disposal costs were excessive, and hazardous, at which point EPA agreed material could be returned to manufacturer in India).

7. June 2015 – Consent agreement and no further action letter received. Then the company later determined it was only an internal EPA agreement on fines and not a final consent agreement.

8. December 2015 – Official consent agreement received (only after requesting the document from the EPA and subsequently learning they originally sent it to the wrong contact; this also required the company and counsel to document the incorrect mailing and had EPA agree to accept a new timeline to execute the order and return the material, otherwise they risked failing to meet the imposed deadline in the agreement). A delinquency notice from the EPA was received and not cleared up until January 2016.

9. February 2016 – Material was shipped to India.

The experience from start to "finish" was 30 months. The company's costs continued to climb as they had to pay storage/inventory costs on approximately 200,000 pounds of quarantined material.

From the company's side, it was more the lack of feedback from the EPA, and they were reluctant to "poke the sleeping giant" and thereby provoke the agency to take further action beyond the original scope of the issue.

Brenntag Northeast Multi-Media Inspection – ***Settled***
EPA Region 3

The following summarizes a timeline and events associated with the EPA's multi-media inspection of the Brenntag Northeast, Reading, Pennsylvania, facility.

- **July 29-30, 2014**: Representatives from EPA Region 3 began a facility inspection for compliance with the Resource Conservation & Recovery Act (RCRA). No results or findings were issued or discussed with Brenntag personnel at the conclusion of the visit.

- **March 23, 2015:** EPA provided Brenntag with an inspection report resulting from the July 29-30, 2014, visit and a Request For Information (RFI) pursuant to the Clean Water Act; RCRA; and the Comprehensive Environmental Response, Compensation, and Liability Act. The agency requested a full response to the RFI by May 11, 2015. Since the nature of RFIs is to request a significant amount of detailed information, typically EPA will grant an extension of time for submittals. However, in this case, Brenntag's

request for an extension and proposal to provide a rolling response over a period of time was denied by the agency. The unprecedented denial of the extension request signaled to us that EPA was not satisfied with the facilty's attention to regulatory detail in management of hazardous materials. After internal review of the inspection report by Brenntag legal counsel and a detailed tour of the facility, it was determined the EPA inspector(s) must have developed some incorrect impressions of the facility's preparedeness for a major spill event which, in turn, led EPA to believe mistakenly there were significant noncompliance issues. Ultimately, Brenntag informed EPA that their timeline request for RFI submittal was unreasonable and information would be provided as quickly as feasible. Brenntag provided the requested RFI material to the agency May 11, 18, 26, 27; June 5, 17, 30; and July 13, 18, 2015. Preparation of this response required approximately 650 workhours by Brenntag personnel and expense associated with guideance from environmental consultant and legal counsel.

- **May 20, 2015:** EPA inspectors returned to the facility to conduct a Clean Water Act and Spill Prevention inspection.

- **August 26, 2015:** Brenntag received report from EPA summarizing all inspection findings with allegations of 12 alleged violations. However, EPA did not provide any information on initial proposed penalties for the alleged violations. Based on similar violations imposed on other companies, the company's internal estimate of a proposed penalty was between $350,000 and $500,000. Brenntag began formulating a response to the alleged violations and requested a meeting with the agency to start the negotiation process.

- **September 15, 2015:** Brenntag submited its intial response to the agency, denying seven of the 12 alleged violations. The agency agreed to meet at the facility September 25 to start negotiations.

- **September 24, 2015:** At approximately 4:30 PM, Brenntag received notification from the agency of their intent to cancel the originally agreed upon meeting date of September 25. This resulted in Brenntag incurring unnecessary cost associated with time/travel expense for key company personnel, environmental consultants, and external legal counsel. Furthermore, the agency informed Brenntag counsel of their intent to file the Administrative Compliant by the end of the month so as to meet a fiscal year-end deadline. Brenntag was also informed, verabally, that the initial proposed penalty for the 12 violations would be $440,000.

- **September 30, 2015:** EPA filed the Administrative Complaint without meeting with Brenntag — thus, effectively denying the company's right to due process to defend or rebut the alleged violations.

- **October 30, 2015:** Based on EPA's pre-Complaint conduct and communications, Brenntag decided a Settlement Conference with Regional Office personnel would not be helpful in resolving this issue. Therefore, a motion was filed by Brenntag counsel requesting utilization of the Alternative Dispute Resolution (ADR) process administered by the Office of Administrative Law Judges. Upon receipt of the ADR notification, the EPA's Regional Office Counsel immediately contacted Brenntag to request a meeting to negotiate this issue.

- **November 20, 2015:** Brenntag agreed to a meeting with EPA Regional Officials in their Philidalephia office December 4, 2015.

- **December 4, 2015:** Brenntag finally met with EPA Regional Officials to review the alleged violations and began the negotiation process. Furthermore, Brenntag invited the officials to the facility so they could see first hand the facility's condition and how it is operated. Facility meeting was agreed upon for December 11, 2015.

- **December 11, 2015**: EPA Regional Officials visited the Reading facility and negotiations continued.

- **March 14, 2016:** EPA and Brenntag signed a Consent Agreement and Final Order resolving the matter. Seven of the original 1) alleged violations were ultimately dismissed. The remaining five violations were all administrative and paperwork in nature. Brenntag agreed to a civil penalty of $55,000 and a $35,000 Supplemental Environmental Project to benefit the local fire department.

Although the final penalty imposed was excessive based on the nature of the violations, Brenntag made a business decision to settle so as not to incur additional expenses. What is extremely troubling was this EPA Region denying a regulated company the right to due process under the law in order to meet an arbitrary fiscal year deadline. It was obvious that meeting this deadline was more important to the agency than actually resolving this issue. Furthermore, the lack of willingness demonstrated by the agency to engage in good faith negotiations led to an increase in hostility and animosity between the parties. Instead of taking approximatley 20 months to resolve this issue, in reality, the case could have been completed within 90 days. In his 28-year career dealing with EPA, Brenntag's Director of Safety, Health, & Environment has never had a similar experience where a Region deviated so far away from standard operating protocol, demonstrated such an unwillingness to negotiate in good faith, and denied a company due process to defend against alleged violations.

Message

From: Eric Byer [ebyer@nacd.com]
Sent: 7/26/2018 1:23:12 PM
To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
Subject: RE: E-connect

They punted me to Nancy B. Lunch soon?

From: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Sent: Monday, July 9, 2018 3:20 PM
To: Ford, Hayley <ford.hayley@epa.gov>; Molina, Michael <molina.michael@epa.gov>
Cc: Eric Byer <ebyer@nacd.com>
Subject: E-connect

Hayley and Michael,
I'm cc'ing Eric Byer, President of the National Association of Chemical Distributors (NACD). He is interested in finding a time to meet with the Acting Administrator. Eric, please follow-up with specific times that you are looking to set up a meeting and potential attendees.
Best,
Mandy

Mandy M. Gunasekara
Principal Deputy Assistant Administrator
Office of Air and Radiation
US Environmental Protection Agency

Message

From: Eric Byer [ebyer@nacd.com]
Sent: 7/9/2018 7:22:13 PM
To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
Subject: RE: E-connect

You rock!

From: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Sent: Monday, July 9, 2018 3:20 PM
To: Ford, Hayley <ford.hayley@epa.gov>; Molina, Michael <molina.michael@epa.gov>
Cc: Eric Byer <ebyer@nacd.com>
Subject: E-connect

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Best,
Mandy

Mandy M. Gunasekara
Principal Deputy Assistant Administrator
Office of Air and Radiation
US Environmental Protection Agency

Message

From: Eric Byer [ebyer@nacd.com]
Sent: 7/9/2018 7:22:06 PM
To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; Ford, Hayley [ford.hayley@epa.gov]; Molina, Michael [molina.michael@epa.gov]
Subject: RE: E-connect
Attachments: ATT00001.txt

Thanks Mandy.

Hayley/Michael, I am around most of this month and into early August at this point. Whatever works best for Mr. Wheeler I can make work on my end.

Thanks in advance for considering. Much appreciated.

Eric R. Byer
President

1560 Wilson Blvd., Suite 1100
Arlington, VA 22209
703.527.6223 x 3048 – Main Line
703.527.7747 - Fax
571.482.3048 - Direct
ebyer@nacd.com
LinkedIn

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Sent: Monday, July 9, 2018 3:20 PM
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Best,
Mandy

Mandy M. Gunasekara
Principal Deputy Assistant Administrator
Office of Air and Radiation
US Environmental Protection Agency

Message

From: Eric Byer [ebyer@nacd.com]
Sent: 7/9/2018 7:08:46 PM
To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
Subject: RE: Question
Attachments: ATT00001.txt

Great. Ok Thanks

From: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Sent: Monday, July 9, 2018 10:21 AM
To: Eric Byer <ebyer@nacd.com>
Subject: RE: Question

Tamika Burton is the best point of contact. I'll e-connect in a sec. Also, her number is 202-564-4711

From: Eric Byer [mailto:ebyer@nacd.com]
Sent: Monday, July 9, 2018 8:39 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Question

Yes, I know, he hasn't even gotten into the catbird seat for a few hours and I wanted to see how best to meet with Wheeler. Just a scheduling request? Welcome your keen powers of suggestion here.

Thanks. Hope you had a good weekend.

Eric R. Byer
President

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703.527.7747 - Fax
571.482.3048 - Direct
ebyer@nacd.com

Message

From: Eric Byer [ebyer@NACD.com]
Sent: 9/6/2017 2:37:19 PM
To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
Subject: NACD Annual Meeting

Good Morning Sunshine!

Hope you had a good weekend. So, our annual meeting is November 13-16 and we would love to have you speak in front of the board on Monday morning November 13th. The meeting is from 7:30am—12pm. Could fit you in wherever. You and Nancy are both most welcome. Any interest? If so I will assemble an official invitation.

Thanks!

Eric R. Byer
President

nacd
National Association of Chemical Distributors

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Arlington, VA 22209
703.527.6223 x 3048 - Main Line
703.527.7747 - Fax
571.482.3048 - Direct
ebyer@nacd.com

LinkedIn

Message

From: Beck, Nancy [Beck.Nancy@epa.gov]
Sent: 5/26/2017 1:56:20 PM
To: Jennifer Gibson [JGibson@NACD.com]; Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
CC: Eric Byer [ebyer@NACD.com]
Subject: RE: NACD Member Egregious Enforcement Case - Time Sensitive

Hi Jennifer,
I am working with staff to try to track it down.

Regards,
Nancy

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: Ex. 6 Personal Privacy (PP)
beck.nancy@epa.gov

From: Jennifer Gibson [mailto:JGibson@NACD.com]
Sent: Thursday, May 25, 2017 2:50 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Eric Byer <ebyer@NACD.com>
Subject: RE: NACD Member Egregious Enforcement Case - Time Sensitive

Hello Again, Nancy.

I am checking in with you to see if you have learned anything on this case. Brenntag received their settlement offer today from Region 4. EPA is sticking with the $19,410 penalty with the option of a 75% SEP, 25% straight penalty. Brenntag has until June 9 to respond to EPA.

Thanks so much for your assistance.

Best regards,

Jennifer

Jennifer C. Gibson
Vice President, Regulatory Affairs

National Association of Chemical Distributors (NACD)

nacd
National Association of Chemical Distributors

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(703) 527-7747 - Fax
(571) 482-3047 - Direct
jgibson@nacd.com
Linked

From: Beck, Nancy [mailto:Beck.Nancy@epa.gov]
Sent: Monday, May 22, 2017 6:54 PM
To: Jennifer Gibson <JGibson@NACD.com>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Eric Byer <ebyer@NACD.com>
Subject: RE: NACD Member Egregious Enforcement Case - Time Sensitive

Jennifer,
Thanks for this information. TRI is in OCSPP now. I will see what I can learn about this one from our staff.

Regards,
Nancy

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: Ex. 6 Personal Privacy (PP)
beck.nancy@epa.gov

From: Jennifer Gibson [mailto:JGibson@NACD.com]
Sent: Monday, May 22, 2017 3:05 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Eric Byer <ebyer@NACD.com>
Subject: NACD Member Egregious Enforcement Case - Time Sensitive

Dear Mandy and Nancy,

It was nice to see you last week at NACD's meeting with Administrator Pruitt. As a follow up, Eric Byer and I are working to collect troubling enforcement examples from our members with a goal of getting these to you this week, or early next at the latest.

In the meantime, one of our members, Brenntag, reached out to me on Friday with an immediate example from Region 4. EPA is proposing a five-figure penalty for failure to hit the certify button for one chemical when submitting a Toxic Release Inventory report. A description of the case is attached. This is a perfect example of extreme monetary penalties issued for minor administrative errors that result in no harm to the environment and of the "Find & Fine" enforcement approach we discussed. In this case, even the agency's rationale for the large penalty is flawed.

Can you assist with this? We are curious to know if Region 4 even vetted this penalty through EPA headquarters as this seems completely contrary to the approach Administrator Pruitt indicated he would like the agency to take.

Please let me know if you need any additional information. Thank you so much for your consideration.

Best regards,

Jennifer

Jennifer C. Gibson
Vice President, Regulatory Affairs

National Association of Chemical Distributors (NACD)

National Association of Chemical Distributors

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(703) 527-7747 - Fax
(571) 482-3047 – Direct
(703) 989-3261 - Cell
jgibson@nacd.com
LinkedIn

Message

From: Jennifer Gibson [JGibson@NACD.com]
Sent: 5/23/2017 12:12:49 PM
To: Beck, Nancy [Beck.Nancy@epa.gov]; Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
CC: Eric Byer [ebyer@NACD.com]
Subject: RE: NACD Member Egregious Enforcement Case - Time Sensitive

Thanks so much, Nancy.

Best regards,

Jennifer

Jennifer Gibson
NACD
(571)482-3047 – o
(703)989-3261 - m

From: Beck, Nancy [mailto:Beck.Nancy@epa.gov]
Sent: Monday, May 22, 2017 6:54 PM
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Cc: Eric Byer <ebyer@NACD.com>
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Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
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jgibson@nacd.com
LinkedIn

BRENNTAG

May 19, 2017

To Whom It May Concern:

RE: Brenntag Mid South SARA 313 (Toxic Release Inventory) Violation

On January 12, 2017, Brenntag Mid-South's East Point, Georgia facility was inspected by the U.S. EPA Region 4 for compliance with the Community Right-to Know regulations. Brenntag personnel provided EPA inspectors with the facilities SARA 312- Tier II Inventory and SARA 313-Toxic Release Inventory reports for years 2012 through 2015. At time of inspection, Brenntag personnel realized that for reporting year 2015, one SARA 313 Form A report for Formic Acid had been submitted, but not certified, on EPA's CDX reporting system. Reporting within the CDX system is a two step process, initial report submittal and subsequent certification. Brenntag personnel had simply failed to click the certification button for this particular report. Upon discovery during the inspection, Brenntag personnel logged into the CDX and clicked the certification button for the report.

On May 2, 2017, Brenntag received two Notices of Violation for failure to submit a Form A for Formic Acid to EPA and the State of Georgia. Note: states receive TRI reports via the CDX system.

On May 18, 2017, Brenntag and EPA Region 4 conducted a conferencce call to review the proposed penalities. Ms. Erica White represented the EPA and outlined the proposed penalties as follows:

- Initial proposed penalty of $55,460 ($27,730 per violation)
- Final proposed settlement of $19,410

EPA took into consideration Brenntag's immediate corrective action of "clicking" the certification button within the CDX system; our cooperation during the inspection and our clean compliance history for reducing the proposed penalty. Furthermore, EPA stated their reasoning behind the large penalty was that failure to certify the report prevented local agencies from having available knowledge of the chemicals presence at the facility to properly plan for potential emergency response. However, the intent of SARA 313 reporting is for measuring toxic releases and not for emergency response planning. The SARA 312 Tier II Inventory report is intended for emergency response planning and Brenntag reported Formic Acid on the 2015

Brenntag North America, Inc.
3111 North Post Road
Indianapolis, Indiana 47226
Phone: (317) 454-7226

report. Therefore, the local responders were provided with applicable knowledge, via the correct reporting avenue, of the presence of this material at our facility.

In 2015, Brenntag Mid-South submitted 38 Form A's and 33 Form R's for 17 operating locations within their region. All submitted reports, with the exception of the Form A for East Point were certified within the CDX system. This, in and of itself, demonstrates Brenntag Mid-South's knowledge and intent to comply with the regulatory requirement.

I am in agreement that the failure to "click" the certification button within the CDX system for the East Point report is techincally a violation of the SARA 313 regulation. However, the report had been submitted and the administrative oversight did not cause any damage to the environment or result in injury to Brenntag personnel or members of the general population. For this reason, it is my opinion that the proposed penalty of $19,410 is not justified for a simple oversight.

Feel free to contact me at 484-824-0268 or swiram@brenntag.com if you have any questions or require additional information.

Respectfully Submitted,

Brenntag North America, Inc.

Shawn P. Wiram
Director Safety, Health & Environment

Brenntag, Inc.
P.O. Box 13786
Reading PA 19612
Phone: (610) 926-6100
Fax: (610) 926-3070

Message

From: Gunasekara, Mandy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=53D1A3CAA8BB4EBAB8A2D28CA59B6F45-GUNASEKARA,]
Sent: 9/14/2018 4:05:23 PM
To: Eric Byer [ebyer@nacd.com]
Subject: Re: Trying to park. Running a little late

Ok- no worries. I'm at table- upstairs and to your left.

Sent from my iPhone

> On Sep 14, 2018, at 11:57 AM, Eric Byer <ebyer@nacd.com> wrote:
>
>

Appointment

From: Gunasekara, Mandy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=53D1A3CAA8BB4EBAB8A2D28CA59B6F45-GUNASEKARA,]
Sent: 1/30/2018 8:58:30 PM
To: Eric Byer [ebyer@NACD.com]

Subject: Accepted: Lunch with Mandy — Reservation at Central Michel Richard for 2
Location: 1001 Pennsylvania Ave., NW, Washington, DC 20004

Start: 2/2/2018 4:45:00 PM
End: 2/2/2018 6:15:00 PM
Show Time As: Busy